

[ORAL ARGUMENT NOT YET SCHEDULED]

CASE NO. 10-7036

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

DICK ANTHONY HELLER, ABSALOM JORDAN,
WILLIAM CARTER, AND MARK SNYDER

APPELLANTS,

v.

THE DISTRICT OF COLUMBIA AND
ADRIAN M. FENTY, MAYOR, DISTRICT OF COLUMBIA,

APPELLEES.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATUTORY APPENDIX TO BRIEF FOR
LAW PROFESSORS AND PROFESSIONAL HISTORIANS SAUL CORNELL,
PAUL FINKELMAN, STANLEY N. KATZ, AND DAVID T. KONIG
AS *AMICI CURIAE* IN SUPPORT OF APPELLEES

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Dated: September 23, 2010

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Tab 1

Concealed Weapon Laws of the Early Republic

*Dueling, Southern Violence,
and Moral Reform*

Clayton E. Cramer

KF
3941
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1999

PRAEGER

Westport, Connecticut
London

Appendix A

Text of the Laws

Concealed weapon statutes adopted before 1846, in chronological sequence.

KENTUCKY (1813)

CHAP. LXXXIX.

AN ACT to prevent persons in this Commonwealth from wearing concealed Arms, except in certain cases.

Approved, February 3, 1813.

Sec. 1. *BE it enacted by the general assembly of the commonwealth of Kentucky,* That any person in this commonwealth, who shall hereafter wear a pocket pistol, dirk, large knife, or sword in a cane, concealed as a weapon, unless when travelling on a journey, shall be fined in any sum, not less than one hundred dollars; which may be recovered in any court having jurisdiction of like sums, by action of debt, or on the presentment of a grand jury — and a prosecutor in such presentment shall not be necessary. One half of such fine shall be to the use of the informer, and the other to the use of the commonwealth.

This act shall commence and be in force, from and after the first day of June.¹

LOUISIANA (1813)

AN ACT

Against carrying concealed weapons, and going armed in public places in an unnecessary manner.

Preamble. Whereas assassination and attempts to commit the same, have of late been of such frequent occurrence as to become a subject of serious alarm to the peaceable and well disposed inhabitants of this state; and whereas the same is in a great measure to be attributed to the dangerous and wicked practice of carrying about in public places concealed and deadly weapons, or going to the same armed in an unnecessary manner, therefore;

Sect. 1. *Be it enacted by the senate and house of representatives of the state of Louisiana, in general assembly convened.* That from and after the passage of this act, any person who shall be found with any concealed weapon, such as a dirk, dagger, knife, pistol or any other deadly weapon concealed in his bosom, coat or in any other place about him that do not appear in full open view, any person so offending, shall on conviction thereof before any justice of the peace, be subject to pay a fine not to exceed fifty dollars nor less than twenty dollars, one half to the use of the state, and the balance to the informer, and should any person be convicted of being guilty of a second offence before any court of competent jurisdiction, shall pay a fine of not less than one hundred dollars to be applied as aforesaid, and be imprisoned for a time not exceeding six months.

Sect. 2. *And be it further enacted,* That should any person stab or shoot, or in any way disable another by such concealed weapons, or should take the life of any person, shall on conviction before any competent court suffer death, or

INDIANA (1820)

CHAPTER XXIII.

AN ACT to prohibit the wearing of concealed weapons.

Approved, January 14, 1820.

Sect. 1. *BE it enacted by the General Assembly of the State of Indiana.* That any person wearing any dirk, pistol, sword in cane, or any other unlawful weapon, concealed, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not exceeding one hundred dollars, for the use of county seminaries. *Provided however,* that this act shall not be so construed as to affect travellers.³

INDIANA (1831)

Sect. 58. That every person, not being a traveller, who shall wear or carry any dirk, pistol, sword in a cane, or other

Sect. 3. *And be it further enacted,* That when any officer has good reason to believe that any person or persons have weapons concealed about them, for the purpose of committing murder, or in any other way armed in such a concealed manner, on proof thereof being made to any justice of the peace, by the oath of one or more credible witnesses, it shall be the duty of such judge and justice to issue a warrant against such offender and have him searched, and should he be found with such weapons, to fine him in any sum not exceeding fifty dollars nor less than twenty dollars, and to bind over to keep the peace of the state, with such security as may appear necessary for one year, and on such offender failing to give good and sufficient security as aforesaid; the said justice of the peace shall be authorized to commit said offender to prison for any time not exceeding twenty days.²

1. *Acts Passed at the First Session of the Twenty First General Assembly for the Commonwealth of Kentucky* (Frankfort: Gerard & Berry, 1813), 100-101.

2. *Acts Passed at the Second Session of the First Legislature of the State of Louisiana* (New Orleans: Baird and Wagner, 1813), 172-175.

3. *Laws of the State of Indiana, Passed at the Fourth Session of the General Assembly* (Jeffersonville: Isaac Cox, 1820), 39.

dangerous weapon concealed, shall upon conviction thereof, be fined in any sum not exceeding one hundred dollars.⁴

ALABAMA (1837)

AN ACT

To suppress the use of Bowie Knives.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That if any person carrying any knife or weapon, known as Bowie Knives or Arkansas Tooth-picks, or either or any knife or weapon that shall in form, shape or size, resemble a Bowie-Knife or Arkansaw [sic] Tooth-pick, on a sudden rencontre, shall cut or stab another with such knife, by reason of which he dies, it shall be adjudged murder, and the offender shall suffer the same as if the killing had been by malice aforethought.

Sec. 2. *And be it further enacted,* That for every such weapon, sold or given, or otherwise disposed of in this State, the person selling, giving or disposing of the same, shall pay a tax of one hundred dollars, to be paid into the county Treasury; and if any person so selling, giving or disposing of such weapon, shall fail to give in the same to his list of taxable property, he shall be subject to the pains and penalties of perjury.

Approved June 30, 1837.⁵

GEORGIA (1837)

AN ACT to guard and protect the citizens of this State, against the unwarrantable and too prevalent use of deadly weapons.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met,*

^{4.} *Revised Laws of Indiana, in Which Are Comprised All Such Acts of a General Nature as Are in Force in Said State; Adopted and Enacted by the General Assembly at Their Fifteenth Session* (Indianapolis: Douglass & Maguire, 1831), 192.

^{5.} *Acts Passed at the Called Session of the General Assembly of the State of Alabama* (Tuscaloosa: Ferguson & Eaton, 1837), chap. 11, 7.

and it is hereby enacted by the authority of the same. That from and after the passage of this act, it shall not be lawful for any merchant, or vender of wares or merchandise in this State, or any other person or persons whatsoever, to sell, or offer to sell, or to keep, or have about their person or elsewhere, any of the hereinafter described weapons, to wit: Bowie, or any other kind of knives, manufactured and sold for the purpose of wearing, or carrying the same as arms of offence or defence, pistols, dirks, sword canes, spears, &c., shall also be contemplated in this act, save such pistols as are known and used, as horseman's pistols, &c.

Sec. 2. *And be it further enacted by the authority aforesaid,* That any person or persons within the limits of this State, violating the provisions of this act, except as hereafter excepted, shall, for each and every such offence, be deemed guilty of a high misdemeanor, and upon trial and conviction thereof, shall be fined, in a sum not exceeding five hundred dollars for the first offence, nor less than one hundred dollars at the direction of the Court; and upon a second conviction, and every after conviction of a like offence, in a sum not to exceed one thousand dollars, nor less than five hundred dollars, at the discretion of the Court.

Sec. 3. *And be it further enacted by the authority aforesaid,* That is shall be the duty of all civil officers, to be vigilant [sic] in carrying the provisions of this act into full effect, as well also as Grand Jurors, to make presentments of each and every offence under this act, which shall come under their knowledge.

Sec. 4. *And be it further enacted by the authority aforesaid,* That all fines and forfeitures arising under this act, shall be paid into the county Treasury, to be appropriated to county purposes: *Provided, nevertheless,* that the provisions of this act shall not extend to Sheriffs, Deputy Sheriffs, Marshals, Constables, Overseers or Patrols, in actual discharge of their respective duties, but not otherwise: *Provided, also,* that no person or persons, shall be found guilty of violating the before recited act, who shall openly wear, externally, Bowie Knives, Dirks, Tooth Picks, Spears, and which shall be exposed plainly to view: *And provided, nevertheless,* that

the provisions of this act shall not extend to prevent vendors, or any other persons who now own and have for sale, any of the aforesaid weapons, before the first day of March next.

Sec. 5. *And be it further enacted by the authority aforesaid, That all laws and parts of laws militating against this act, be, and the same are, hereby repealed.*⁶

TENNESSEE (1838)

CHAPTER CXXVII.

An Act to suppress the sale and use of Bowie Knives and Arkansas Tooth Picks in this State.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee, That if any merchant, pedlar, jeweller, conffectioner, grocery keeper, or other person or persons whatsoever, shall sell or offer to sell, or shall bring into this State, for the purpose of selling, giving or disposing of in any other manner whatsoever, any Bowie knife or knives, or Arkansas tooth picks, or any knife or weapon that shall in form, shape or size resemble a Bowie knife or any Arkansas tooth pick, such merchant, pedlar, jeweller, conffectioner, grocery keeper, or other person or persons for every such Bowie knife or knives, or weapon that shall in form, shape or size resemble a Bowie knife or Arkansas tooth pick so sold, given or otherwise disposed of, shall be guilty of a misdemeanor, and upon conviction thereof upon indictment or presentment, shall be fined in a sum not less than one hundred dollars, nor more than five hundred dollars, and shall be imprisoned in the county jail for a person not less than one month nor more than six months.*

Sec. 2. *That if any person shall wear any Bowie knife, Arkansas tooth pick, or other knife or weapon that shall in form, shape or size resemble a Bowie knife or Arkansas tooth pick under his clothes, or keep the same concealed about his person, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum*

not less than two hundred dollars, nor more than five hundred dollars, and shall be imprisoned in the county jail not less than three months and not more than six months.

Sec. 3. *That if any person shall maliciously draw or attempt to draw any Bowie knife, Arkansas tooth pick, or any knife or weapon that shall in form, shape or size resemble a Bowie knife or Arkansas tooth pick, from under his clothes or from any place of concealment about his person, for the purpose of sticking, cutting, awing, or intimidating any other person, such person so drawing or attempting to draw, shall be guilty of a felony, and upon conviction thereof shall be confined in the jail and penitentiary house of this State for a period of time not less than three years, nor more than five years.*

Sec. 4. *That if any person carrying any knife or weapon known as a Bowie knife, Arkansas tooth pick, or any knife or weapon that shall in form, shape or size resemble a Bowie knife, on a sudden rencounter, shall cut or stab another person with such knife or weapon, whether death ensues or not, such person so stabbing or cutting shall be guilty of a felony, and upon conviction thereof shall be confined in the jail and penitentiary house of this State, for a period of time not less than three years, nor more than fifteen years.*

Sec. 5. *That this act shall be in force from and after the first day of March next. And it shall be the duty of the several judges of the circuit courts in this State to give the same in charge to the grand jury every term of the respective courts, and any civil officer who shall arrest and prosecute to conviction and punishment any person guilty of any of the offences enumerated in this act, shall be entitled to the sum of fifty dollars, to be taxed in the bill of costs, and the attorney general shall be entitled to a tax fee of twenty dollars in each case, when a defendant shall be convicted, and no prosecutor required on any presentment or indictment for any of the offences enumerated in this act.*⁷

6. *Acts of the General Assembly of the State of Georgia Passed in Milledgeville at an Annual Session in November and December, 1837* (Milledgeville: P. L. Robinson, 1838), 90-91.

7. *Acts Passed at the First Session of the Twenty-Second General Assembly of the State of Tennessee: 1837-8* (Nashville: S. Nye & Co., 1838), 200-201.

ARKANSAS (1838)

Every person who shall wear any pistol, dirk, butcher or large knife, or a sword in a cane, concealed as a weapon, unless upon a journey, shall be adjudged guilty of a misdemeanor, and upon conviction thereof, in the county in which the said offence shall have been committed, shall be fined in any sum not less than twentyfive dollars, nor more than one hundred dollars, one half to be paid into the county treasury, the other half to the informer, and shall also be imprisoned not less than one, nor more than six months.⁸

VIRGINIA (1838)

Chap. 101.—An ACT to prevent the carrying of concealed weapons.

[Passed February 2, 1838.]

1. *Be it enacted by the general assembly:* That if any person shall hereafter habitually or generally keep or carry about his person any pistol, dirk, bowie knife, or any other weapon of the like kind, from the use of which the death of any person might probably ensue, and the same be hidden or concealed from common observation, and he be thereof convicted, he shall for every such offence forfeit and pay the sum of not less than fifty dollars nor more than five hundred dollars, or be imprisoned in the common jail for a term not less than one month nor more than six months, and for each instance at the discretion of the jury; and a moiety of the penalty recovered in any prosecution under this act, shall be given to any person who may voluntarily institute the same.

2. *And be it further enacted,* That if any person shall hereafter be examined in any county or corporation court upon a charge of murder or felony, perpetrated by shooting, stabbing, maiming, cutting or wounding, and it shall appear that the offence charged was in fact committed by any such weapon as is above mentioned, and that the same was hidden or concealed from or kept out of the view of the person

against whom it was used, until within the space of one half hour next preceding the commission of the act, or the infliction of the wound, which shall be charged to have caused the death, or constituted the felony, it shall be the duty of the examining court to state that the fact did so appear from the evidence; and if the court shall discharge or acquit the accused, such discharge or acquittal shall be no bar to an indictment for the same offence in the superior court having jurisdiction thereof, provided the same be found within one year thereafter. And whether the accused shall be by such court sent on for further trial or discharged, it shall be lawful to charge in the indictment that the offence was committed in any of the modes herein before described; and upon the trial it shall be the duty of the jury (if they find the accused not guilty of the murder or felony) to find also whether the act charged was in fact committed by the accused, though not feloniously, and whether the same was committed or done with or by means of any pistol, dirk, bowie knife, or other dangerous weapon, which was concealed from or kept out of the view of the person on or against whom it was used, for the space before mentioned, next preceding such use thereof, and if the jury find that the act was so committed, they shall assess a fine against the accused, and it shall be lawful for the court to pronounce judgment as in cases of misdemeanor.

3. This act shall be in force from and after the first day of June next,⁹

AN ACT

To suppress the evil practice of carrying weapons secretly.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That if any person shall carry concealed about his person any species of fire arms, or any bowie knife, Arkansas saw [sic] tooth-pick, or any other knife of the like kind, dirk, or any other deadly weapon, the person so offending, shall on conviction thereof, before any court having competent ju-

8. *Revised Statutes of the State of Arkansas, Adopted at the October Session of the General Assembly of Said State, A.D. 1837* (Boston: Weeks, Jordan and Co., 1838), Div. VIII, Art. I, § 13, p. 280.

9. *Acts of the General Assembly of Virginia, Passed at the Session of 1838* (Richmond: Thomas Ritchie, 1838), 76-77.

risdition, pay a fine not less than fifty nor more than five hundred dollars, to be assessed by the jury trying the case; and be imprisoned for a term not exceeding three months, at the discretion of the Judge of said court.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Judges of the several Circuit Courts of this State to give this act specially in charge of the Grand Juries, at the commencement of each term of said Courts.

Sec. 3. *And be it further enacted*, That the Secretary of State shall cause this act to be published for three months in the papers of Mobile, Montgomery, Tuscaloosa, Huntsville, Wetumpka and Tuscaloosa, which publishers shall be paid out of any money in the Treasury not otherwise appropriated.

Approved Feb. 1, 1839.¹⁰

Limitations of Sources

Appendix B

Determining the motives for the concealed weapon laws of the early Republic is quite a challenge because of the absence of documents. The historian who researches federal laws of the same period, no matter how far back, has an advantage of extraordinary value: he has access to the official journals of Congress mandated by the U.S. Constitution,¹ and carefully preserved. When it comes to the state legislatures, the historian is much less fortunate. Legislative journals, especially for the laws passed in the period 1813-1820, are seldom available. Even when they have been preserved, they usually contain little more than a list of votes and actions taken on a bill.

Newspapers are also a struggle. Only some newspapers of this period survived into the modern period to be copied, and even those that have survived are sometimes not intact. The microfilmed newspapers of the period faithfully reproduce the cigarette burns, coffee cup rings, and oxidation damage inflicted on the originals in the decades between publication and preservation. Even where the microfilm provides a readable copy, most local newspapers of the South up through the 1830s provide very limited legislative cover. age other than reprinting the official legislative journals.

While the absence of newspapers is a problem, the presence of newspapers can also be a hazard. For some of the early Republic concealed weapon law states, there are *no* surviving newspapers that cover the period of interest. For others, there is only one newspaper, and there is always the hazard that this one source pre-

10. *Acts Passed at the Annual Session of the General Assembly of the State of Alabama* (Tuscaloosa: Hale & Eaton, 1838 [1839]), chap. 77, 67.

1. U.S. Constitution, Art. I, § 5, cl. 3.

Tab 2

A DIGEST
OF THE
STATUTES OF ARKANSAS

EMBRACING ALL
LAWS OF A GENERAL AND PERMANENT CHARACTER

IN FORCE AT THE CLOSE OF THE SESSION OF THE GENERAL ASSEMBLY OF
ONE THOUSAND EIGHT HUNDRED AND EIGHTY-THREE.

BY W. W. MANSFIELD.

EXAMINED AND APPROVED BY

U. M. ROSE.

PUBLISHED BY AUTHORITY OF THE GENERAL ASSEMBLY.

LITTLE ROCK, ARK.
MITCHELL, A. BETTER, STEAM BOOK AND JOB PRINTERS
1883.

LIII.—CARRYING WEAPONS.

SECTION

1907. Of what kind prohibited; exceptions.
 1908. Weapons excepted; how to be carried; unlawful carrying a misdemeanor.
 1909. Sale of weapons a misdemeanor; exception.
 1910. Unlawful sale or carrying, how punished.

SECTION

1911. Justices failing to proceed against offenders, how punished.
 1912. Officer failing to make arrest, how punished.
 1913. In what courts offenders to be prosecuted.

SECTION 1907. Any person who shall wear or carry in any manner whatever as a weapon any dirk or bowie knife, or a sword, or a spear in a cane, brass or metal knucks, razor, or any pistol of any kind whatever, except such pistols as are used in the army or navy of the United States (jjj), shall be guilty of a misdemeanor. *Provided*, that officers whose duties require them to make arrests, or to keep and guard prisoners, together with the persons summoned by such officers to aid them in the discharge of such duties, while actually engaged in such duties, are exempted from the provisions of this act. *Provided, further*, that nothing in this act be so construed as to prohibit any person from carrying any weapon when upon a journey or upon his own premises (*).

SEC. 1908. Any person, excepting such officers or persons on a journey and on their premises as are mentioned in section 1907, who shall wear or carry any such pistol as is used in the army or navy of the United States, in any manner except uncovered and in his hand, shall be deemed guilty of a misdemeanor (kkk).

SEC. 1909. Any person who shall sell, barter or exchange, or otherwise dispose of, or in any manner furnish to any person, any dirk or bowie knife, or a sword or a spear in a cane, brass or metal knucks, or any pistol of any kind whatever, except such as are used in the army or navy of the United States, and known as the navy pistol, or any kind of cartridge for any pistol, or any person who shall keep any such arms or cartridges for sale, shall be guilty of a misdemeanor.

SEC. 1910. Any person convicted of a violation of any of the provisions of this act shall be punished by a fine of not less than fifty nor more than two hundred dollars.

SEC. 1911. Any justice of the peace in this state, who, from his own knowledge or from legal information, knows, or has reasonable grounds to believe, any person guilty of a violation of the provisions of this act, and shall fail or refuse to proceed against such person, shall be deemed guilty of a non-sensance in office, and, upon conviction thereof, shall be punished by the same fine and penalty provided in section 1910, and shall be removed from office (*).

SEC. 1912. Any officer in this state whose duty it is to make arrests, who may have personal knowledge of any person carrying arms contrary to the pro-

(jjj) See *Wilson v. State*, 31, 337; *Holland v. State*, 16, 360.

(kk) An indictment need not negative the exceptions. *Walker v. State*, 35, 386; *dekk v. State*, 696 and 700 are not unconstitutional. *Haller v. State*, 38, 361.

(*) See *State v. Graham*, 38, 519.

visions of this act, and shall fail or refuse to arrest such person and bring him to trial, shall be punished as provided in section 1910.

SEC. 1913. All persons violating any of the provisions of this act may be prosecuted in any of the courts of this state having jurisdiction to try the same. *Act April 1, 1881.*

LIV.—SELLING LOTTERY TICKETS (*).

SECTION
1914. Keeping office for a misdemeanor; punishment.

SECTION
1915. Sale of lottery, gift concert tickets, etc., a misdemeanor; punishment.

SECTION 1914. Any person who shall hereafter keep an office, room or place for the sale or disposition of lottery tickets, gift concert tickets or like devices shall be deemed guilty of a misdemeanor and liable to indictment, and, on conviction for such offense, shall be fined in a sum not less than fifty dollars nor more than five hundred dollars, with costs of prosecution.

SEC. 1915. Any person who shall vend, sell or otherwise dispose of any lottery ticket, gift concert ticket or like device shall be deemed guilty of a misdemeanor and liable to indictment, and, on conviction thereof, shall be fined in a sum not less than fifty dollars nor more than five hundred dollars. *Act Feb. 17, 1875.*

LV.—ENTICING MINORS FROM PARENTS OR GUARDIANS.

SECTION
1916. A misdemeanor.

SECTION
1917. Punishment.

SECTION 1916. It shall be unlawful for any person to persuade or entice any minor from his parents or guardian, or to secrete any minor when persuaded or enticed from his parents or guardian.

SEC. 1917. Any person violating the provisions of the foregoing section shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not less than ten nor more than fifty dollars, or imprisoned for not less than thirty nor more than ninety days, or both, at the discretion of the court. *Act March 6, 1875.*

Tab 3

CHAPTER 145.

An act relating to and regulating the carrying, possession, sale or other disposition of firearms capable of being concealed upon the person; prohibiting the possession, carrying, manufacturing and sale of certain other dangerous weapons and the giving, transferring and disposition thereof to other persons within this state; providing for the registering of the sales of firearms; prohibiting the carrying or possession of concealed weapons in municipal corporations; providing for the destruction of certain dangerous weapons as nuisances and making it a felony to use or attempt to use certain dangerous weapons against another.

[Approved May 4, 1917. In effect July 27, 1917.]

The people of the State of California do enact as follows:

SECTION 1. Every person who manufactures or causes to be manufactured, or leases, or keeps for sale, or offers, or gives, or otherwise disposes of any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, or metal knuckles, a dirk or dagger, to any person within this state is guilty of a misdemeanor, and if he has been previously convicted of a crime made punishable by this section, he is guilty of a felony.

Manufacture,
etc., of
certain
dangerous
weapons
misdemeanor.

SEC. 2. Every person who possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, metal knuckles, bomb or bombshells, or who carries a dirk or a dagger, is guilty of a misdemeanor, and if he has been convicted previously of any felony or of a crime made punishable by this act, he is guilty of a felony.

Possession
of certain
dangerous
weapons
misdemeanor.

SEC. 3. Every person who carries in any city, city and county, town or municipal corporation of this state any pistol, revolver, or other firearm concealed upon his person, without having a license to carry such firearm as hereinafter provided in section six of this act, shall be guilty of a misdemeanor, and if he has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony.

Carrying
firearms
without
license
misdemeanor

SEC. 4. The unlawful possessing or carrying of any of the instruments, weapons or firearms enumerated in section one to section three inclusive of this act, by any person other than those authorized and empowered to carry or possess the same as hereinafter provided, is a nuisance, and such instruments, weapons or firearms are hereby declared to be nuisances, and when any of said articles shall be taken from the possession of any person the same shall be surrendered to the magistrate before whom said person shall be taken, except that in any city, city and county, town or other municipal corporation the same shall be surrendered to the head of the

Unlawful
possession
of weapon,
etc.,
nuisance.

Surrender
of weapons,
etc.

police force, or police department thereof. The officers to whom the same may be so surrendered, except upon certificate of a judge of a court of record, or of the district attorney of any county that the preservation thereof is necessary or proper to the ends of justice, shall proceed at such time or times as he deems proper, and at least once in each year to destroy or cause to be destroyed such instruments, weapons or other firearms in such manner and to such extent that the same shall be and become wholly and entirely ineffective and useless for the purpose for which it was manufactured.

Destruction
of weapons,
etc.

Attempt
to use of
weapons
felony.

SEC. 5. Any person who attempts to use, or who with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any loaded pistol, revolver or other firearm, or any instrument or weapon commonly known as a blackjack, slungshot, billy, sandelub, sandbag, metal knuckles, bomb, or bombshell or any other dangerous or deadly instrument or weapon, is guilty of a felony. The carrying or possession of any of the weapons specified in this section, by any person while committing, or attempting or threatening to commit a felony, or breach of the peace, or any act of violence against the person or property of another, shall be presumptive evidence of carrying or possessing such weapon with intent to use the same in violation of this section.

License to
carry
concealed
firearm

SEC. 6. It shall be lawful for the board of police commissioners, chief of police, city marshal, town marshal, or other head of the police department of any city, city and county, town, or other municipal corporation of this state, upon proof before said board, chief, marshal or head, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, to issue to such person a license to carry concealed a pistol, revolver or other firearm; *provided, however,* that the application to carry concealed such firearm shall be filed in writing and shall state the name and residence of the applicant, the nature of applicant's occupation, the business address of applicant, the nature of the weapon sought to be carried and the reason for the filing of the application to carry the same.

Register
of sales of
firearms.

SEC. 7. Every person in the business of selling, leasing or otherwise transferring a pistol, revolver or other firearm, of a size capable of being concealed upon the person, whether such seller, leasor or transfrerer is a retail dealer, pawnbroker or otherwise, except as hereinafter provided, shall keep a register in which shall be entered the time of sale, the date of sale, the name of the salesman making the sale, the place where sold, the make, model, manufacturer's number, caliber or other marks of identification on such pistol, revolver or other firearm. Such register shall be prepared by and obtained from the state printer and shall be furnished by the state printer to said dealers on application at a cost of three dollars per one hundred leaves in duplicate and shall be in the form hereinafter provided. The purchaser of any firearm, capable of being

concealed upon the person shall sign, and the dealer shall require him to sign his name and affix his address to said register in duplicate and the salesman shall affix his signature in duplicate as a witness to the signatures of the purchaser. Any person signing a fictitious name or address is guilty of a misdemeanor. The duplicate sheet of such register shall on the evening of the day of sale, be placed in the mail, postage prepaid and properly addressed to the board of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the city, city and county, town or other municipal corporation wherein the sale was made; *provided*, that where the sale is made in a district where there is no municipal police department, said duplicate sheet shall be mailed to the county clerk of the county wherein the sale is made. A violation of any of the provisions of this section by any person engaged in the business of selling, leasing or otherwise transferring such firearms is a misdemeanor. This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms as merchandise by mail, express or other mode of shipment, to points outside of the city, city and county, town or municipal corporation wherein they are situated. The register provided for in this act shall be substantially in the following form:

Duplicate sheet mailed to police.

Violation misdemeanor.

Series No. _____ Form of
Sheet No. _____ register.

ORIGINAL.

Dealers' Record of Sale of Revolver or Pistol.
State of California.

Notice to dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in duplicate.

Carbon duplicate must be mailed on the evening of the day of sale, to head of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the municipal corporations wherein the sale is made, or to the county clerk of your county if the sale is made in a district where there is no municipal police department. Violation of this law is a misdemeanor. Use carbon paper for duplicate. Use indelible pencil.

Sold by _____ Salesman _____
City, town or township _____
Description of arm (state whether revolver or pistol) _____
Maker _____ number _____ caliber _____
Name of purchaser _____ age _____ years.
Permanent residence (state name of city, town or township, street and number of dwelling) _____
Height _____ feet _____ inches. Occupation _____
Color _____ skin _____ eyes _____ hair _____

If traveling or in locality temporarily, give local address-----

Signature of purchaser -----
(Signing a fictitious name or address is a misdemeanor.) (To
be signed in duplicate.)

Witness -----, salesman.
(To be signed in duplicate.)

Series No. -----
Sheet No. -----

DUPLICATE.

Dealers' Record of Sale of Revolver or Pistol.

State of California.

Notice to dealers: This carbon duplicate must be mailed
on the evening of the day of sale as set forth in the original
of this register page. Violation of this law is a misdemeanor.

Sold by ----- Salesman -----

City, town or township -----

Description of arm (state whether revolver or pistol) -----

Maker ----- number ----- caliber -----

Name of purchaser ----- age ----- years.

Permanent address (state name of city, town or township,
street and number of dwelling) -----

Height ----- feet ----- inches. Occupation -----

Color ----- skin ----- eyes ----- hair -----

If traveling or in locality temporarily, give local address-----

Signature of purchaser -----
(Signing a fictitious name or address is a misdemeanor.) (To
be signed in duplicate.)

Witness -----, salesman.
(To be signed in duplicate.)

Exceptions.

SEC. 8. Nothing in this act shall be construed to apply to
sheriffs, constables, marshals, policemen or other duly
appointed peace officers, nor to any person summoned by any
such officers to assist in making arrest or preserving the peace
while said person so summoned is actually engaged in assisting
such officer; nor to duly authorized military or civil organiza-
tions while parading nor to the members thereof when going
to and from the places of meeting of their respective organiza-
tions; nor to the possession or transportation by any merchant
of unloaded firearms as merchandise; nor to bona fide members
of any club or organization now existing or hereinafter organ-
ized, for the purpose of practicing shooting at targets upon
established target ranges, whether public or private, while
such members are using any of the firearms referred to in
this act upon or in such target ranges, or while going to and
from such ranges.

**Constitution-
ality.** SEC. 9. If any section, subsection, sentence, clause or
phrase of this act is for any reason held to be unconstitutional

such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER 146.

An act amending an act entitled "An act to provide for the incorporation and organization and management of county water districts and to provide for the acquisition of water rights or the construction thereby of water works, and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," approved June 10, 1913, by adding thereto a new section to be numbered twenty-eight, providing for the exclusion from any county water district formed under said act of territory not served by such county water district.

{Approved May 4, 1917. In effect July 27, 1917.}

The people of the State of California do enact as follows:

SECTION 1. An act approved June 10, 1913, and entitled "An act to provide for the incorporation and organization and management of county water districts and to provide for the acquisition of water rights or the construction thereby of water works, and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," is hereby amended by adding to said act a section numbered twenty-eight, reading as follows:

Stats. 1913,
p. 1049.

Sec. 28. Any territory, included within any county water district formed under the provisions of this act, and not benefited in any manner by such district, or its continued inclusion therein, may be excluded therefrom by order of the board of directors of such district upon the verified petition of the owner or owners in fee of lands whose assessed value, with improvements, is in excess of one-half of the assessed value of all the lands, with improvements, held in private ownership in such territory. Said petition shall describe the territory sought to be excluded and shall set forth that such territory is not benefited in any manner by said county water district or its continued inclusion therein, and shall pray that such territory may be excluded and taken from said district. Such petition shall be filed with the secretary of the water district and shall be accompanied by a deposit with such secretary of the sum of one hundred dollars, to meet the expenses of advertising and other costs incident to the proceedings for the

Exclusion of
territory.

Petition.

Contents.

Tab 4

loss of life or the breaking of a limb, shall be fined not more than one thousand dollars, or imprisoned not more than ten years, or both.

Repeal.

SEC. 2. Section 1144 of the general statutes and chapter 267 of the public acts of 1907 are repealed.

SEC. 3. This act shall take effect from its passage.

Approved, April 10, 1917.

[Substitute for Senate Bill No. 536.]

CHAPTER 129.

An Act amending an Act concerning Concealed Weapons.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Penalty for carrying concealed weapons.

Section one of chapter 140 of the public acts of 1907 as amended by chapter 261 of the public acts of 1911 is amended to read as follows: Every person who shall carry upon his person any pistol, revolver, slung shot, black jack, sand bag, metal or glass knuckles, or stiletto, or any knife, the edged portion of the blade of which is four inches or over in length, or any other dangerous or deadly weapon or instrument, unless such person shall have been granted a written permit issued and signed by the mayor or chief of police of a city, warden of a borough, or the first selectman of a town, authorizing such person to carry such weapon or instrument within such city, borough or town, shall, upon conviction, be fined not more than five hundred dollars, or imprisoned not more than three years, or both. The provisions of this section shall not apply to any officer charged with the preservation of the public peace.

Approved, April 10, 1917.

[Substitute for Senate Bill No. 379.]

CHAPTER 130.

An Act amending an Act concerning the Misuse of the Flag.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Penalty for misuse of flag of United States or of this state.

Section 1386 of the general statutes is amended to read as follows: Any person who, in any manner, for exhibition or display, puts or causes to be placed any inscription, picture, design, device, symbol, name, advertisement, word, character, mark or notice upon any flag, standard, color or ensign of the United States or state flag of this state, or ensign evidently purporting to be either of said flags, standards, colors or ensigns, or who in

Tab 5

COLORADO STATUTES ANNOTATED

WITH ALL ACTS AND AMENDMENTS UP TO AND INCLUDING 1911 SESSION OF THE LEGISLATURE.

WITH

COMPLETE LEGISLATIVE HISTORY AND DIGEST OF
CITATIONS TO DATE.

CONTAINING STATUTE, SECTIONS 1 TO 2135.
ADULTERATIONS TO DRUNKARDS.

VOLUME TWO

TO

R. S. MORRISON

AND

EMELIO D. DESOTO.

DENVER:

W. H. COCHRAN PUBLISHING CO.
1911.

lease himself by giving to said Justice a bond with good security, conditioned that he will, for the next twelve months, be of good behavior and become himself to some honest employment for support, and that he shall not, nor his family, become a county charge, through or by reason of his idleness, immorality or profligacy.

1829. Having picklock, crow, bit, with intent to break buildings, etc.

See, § 229. If any person shall be found having upon him or her any picklock, crow, key, bit, or other instrument or tool, with intent feloniously to break and enter into any dwelling house, store, warehouse, shop or other building containing valuable property, or shall be found in any of the aforesaid buildings with intent to steal any goods and chattels, every such person so offending shall, on conviction, be deemed a vagrant, and punished by confinement in the penitentiary for a term not exceeding two years.

Legislation. Sec. 1829. Act 1861, p. 314, § 17. Amended by R. S. p. 228, § 148. G. L. § 747. G. S. § 829. The original Act of 1861 contained the word "nippers" following the word "pick-lock" and did not contain the clause "be deemed a vagrant."

1830. Carrying concealed weapons—Second offense—Search without warrant—Confiscation.

Stat. 229. No person, unless authorized so to do by the chief of police of a city, mayor of a town or the sheriff of a county, shall use or carry concealed upon his person any fire arms, as defined by law, nor any pistol, revolver, bowie knife, dagger, sling shot, brass knuckles, or other deadly weapon. Any person who violates the foregoing provisions shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment in jail for a period of not exceeding one year or by a fine of not more than five hundred (\$500.00) dollars, or by both such fine and imprisonment. Any person who has been once convicted hereunder shall for a second offense be guilty of a felony and, upon conviction, shall be punished by a fine of not more than one thousand (\$1,000.00) dollars or by imprisonment in the penitentiary for not exceeding two (2) years, or by both such fine and imprisonment.

The foregoing provisions hereof shall not apply to any sheriff, or deputy sheriff, constable, policeman or other peace officer while on duty within his city, town or county.

It is hereby made the duty of all sheriffs, deputy sheriffs, constables, marshals and policemen to search without warrant all persons suspected of violating the provisions hereof, and to arrest without warrant all persons violating the same and to bring them before the nearest justice of the peace or police magistrate for trial or preliminary examination for such offense. In case any sheriff, deputy sheriff, constable, marshal or policeman shall fail, neglect or refuse to search any person suspected of violating the provisions hereunder, upon the request of any reputable freemholder of the county, such officer shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not more than one hundred (\$100.00) dollars.

All firearms and concealed weapons within the meaning of this act, found upon, or taken from persons violating the same, shall be forfeited to the county and be confiscated and destroyed. Justices of the peace within their respective counties and police magistrates within their respective cities or towns shall have jurisdiction to hear and determine all cases arising under the provisions of this act, and appeals from their judgment shall be to the county court in the respective counties in the same manner as is now provided by law for police court judgment of justices of the peace in other cases of misdemeanor.

Legislation. See 1826, 4-1 Act 1911 S. B. No. 21, approved June 3, 1911. The title of the Act pursuant to which 1830 which it substitutes.

See 1830 as it stood in the 1888 revision was Act 1891, p. 129, § 3, amending Act 1885, p. 179, § 1, which amended G. S. § 579, Act 1881, p. 144, § 1, S. B. 1788, B. S. p. 229, § 349.

The punishment under the original Act of 1862 was a fine of not less than \$5 nor more than \$35.

The Act of 1881 provided a punishment of not less than 10 nor more than 36 days imprisonment and a fine of not less than \$50 nor more than \$100.

The Act of 1885 made the fine not less than \$50 nor more than \$200, the imprisonment not less than 10 days nor more than 66 days, but made the fine and imprisonment alternative in the discretion of the court or allowed both fine and imprisonment to be included in the sentence.

The drastic changes of the text which in that respect repeals the language of the Act of 1881, allowing the seizure and search of the person without oath or warrant, are flagrantly in violation of the Constitution, Art. IV, § 1 and 25. The clause confiscating the weapon is almost equally objectionable.

All previous Acts on the subject were limited to cities and towns but the present text literally follows, applied to carrying a weapon in the woods as well as on the streets and makes no provision for the right of self-defense.

There is no statute allowing sheriffs to force one citizen to carry a weapon and deny it to another and such an Act if passed would seem to contravene § 3 and a of the bill of rights and would allow sheriffs and other like officers to sell safety and justice for any price they could extort.

LEGISLATION

This section makes it the duty of the police officers to search persons suspected of carrying concealed weapons, and justifies such search without warrant.—*Keady v. Peo.*, 32 C. 65, 74 P. 895.

It is not necessary that the party should be convicted of carrying concealed weapons before such weapons become forfeited.—*McConathy v. Deek*, 34 C. 466, 83 P. 135.

A sheriff has no authority to search and take from a prisoner other property.—*Peo. v. Beach* (Feb. 1911), 113 P. 513.

1831. Carrying weapon with intent to assault—Penalty.

Sec. 224. If any person shall have upon him any pistol, gun, knife, dirk, bludgeon, or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined in any sum not exceeding five hundred dollars or imprisoned in the county jail not exceeding six months.

Legislation. See 1831. R. S. in 229 & 356. G. L. § 542. G. S. § 571.

1832. Penalty for giving fire-arms to Indians.

Sec. 225. Any person who shall sell or give away to any Indian under any pretext whatsoever, any fire-arms, ammunition, or other munitions of any kind, which can be used in fire-arms, shall be deemed guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary for a term of not less than two years, nor more than five years. Whereas, an emergency exists, this act shall take effect, and be in force, from, and after its passage and approval.

Legislation. See 18-2. Act 1891 p. 192 § 1, ratified.

AN ACT

To Make the Selling or Giving Away of Fire-arms, Ammunition, or Other Munitions Which Can Be Used in Fire-arms, to Any Indian, a Felony, and Provide a Penalty Therefor.

Under the changed conditions which exist at this date between white men and Indians the enforcement of the test would be obviously oppressive and the maxime ratione cossit lex, would seem to apply.

1833. Unlawful to have toy cannon, etc.

Sec. 226. It shall be unlawful for any person, persons, firm,

Tab 6

THE
REVISED STATUTES
OF THE
STATE OF FLORIDA.

PREPARED UNDER AUTHORITY OF, AND ADOPTED BY,

THE LEGISLATURE OF THE STATE OF FLORIDA.

W. A. BLOUNT, C. M. COOPER, L. C. MASSEY,
COMMISSIONERS.

JACKSONVILLE, FLA.
THE DACCOTA PRINTING AND PUBLISHING HOUSE,
CHAR. W. DACCOTA, PROPRIETOR.
1882

or has on his person slung-shot, metallic knuckles, billies, firearms or other dangerous weapon, shall be punished by imprisonment not exceeding one year and by fine not exceeding fifty dollars.

2424. Officer to take possession of arms.—The officer making any arrest under the preceding sections shall take possession of any arms or weapons found upon the person arrested, and shall retain the same until after the trial of such person, and if he be convicted, said arms or weapons shall be forfeited and the sheriff shall sell the same at public sale and account for and pay over the proceeds thereof, as in the case of fines collected, but if such person be acquitted, the said arms or weapons shall be returned to him.

Chap. 320, sec. 3, Feb. 12, 1851.

2425. Manufacturing or selling slung-shot.—Whoever manufactures, or causes to be manufactured, or sells or exposes for sale any instrument or weapon of the kind usually known as slung-shot, or metallic knuckles, shall be punished by imprisonment not exceeding six months, or by fine not exceeding one hundred dollars.

Chap. 1937, sub-chap. 7, sec. 16, Aug. 6, 1883.

CHAPTER IV.

OFFENCES AGAINST PROPERTY.

ARTICLE I.—Arson. Sections	2426-2433
2.—Burglary and burglarious instruments. Sections	2434-2439
3.—Larceny and receiving stolen goods. Sections	2440-2453
4.—Embezzlement, receiving embezzled property, fraudulent conversions and like offences. Sections	2454-2464
5.—False pretenses, frauds, cheats, acts to injure and the like. Sections	2465-2475
6.—Illegal disposition of property on which another has a claim. Sections	2476-2478
7.—Forgery, counterfeiting and like offences. Sections	2479-2488
8.—Taking or using temporarily the property of another. Sections	2499, 2500
9.—Offences concerning wrecked or derelict property. Sections	2501-2503
10.—Illegal removing and impounding animals. Sections	2504, 2505
11.—Injury and cruelty to animals. Sections	2506-2513
12.—Trespass and injury to realty. Sections	2514-2526
13.—Burning woods. Section	2527
14.—Injuring and defacing buildings, structures, levees, mills, dams, bridges, etc., and other offences concerning property. Sections	2528-2543

ARTICLE I.

ARSON

2426. Burning dwelling-house.—Whoever wilfully and maliciously burns the dwelling-house or any building adjoining

Chap. 1937, sub-chap. 4, sec. 16, Aug. 6, 1883.

Tab 7

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PREPARED UNDER AUTHORITY OF, AND ADOPTED BY,

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COMMISSIONERS.

JACKSONVILLE, FLA.
THE DA COSTA PRINTING AND PUBLISHING HOUSE,
CHAR. W. DA COSTA, PROP'R.
1882

the State and engages in a fight with another person, without the limits thereof, shall be punished by imprisonment not exceeding six months, or by fine not exceeding five hundred dollars.

ARTICLE 4.

LIBEL AND DEFAMATION.

Ib.
Sub-chap. 5.
sec. 15.

2418. Punishment for libel.—Any person convicted of the publication of a libel shall be punished by imprisonment not exceeding one year, or by fine not exceeding one thousand dollars.

Libel defined.—*Jones v. Greeley*, 25 Fla., 629.

Chap. 3400, sec.
3, Jan. 30, 1883.

2419. Defamation.—Whoever speaks of and concerning any woman, married or unmarried, falsely and maliciously, imputing to her a want of chastity, shall be punished by imprisonment not exceeding one year, or by fine not exceeding five hundred dollars.

Chap. 185, sub-
chap. 3, sec. 42.
Aug. 6, 1885.

2420. Threats to accuse another of crime.—Whoever, either verbally or by a written or printed communication, maliciously threatens to accuse another of any crime or offence, or by such communication maliciously threatens an injury to the person or property of another, with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened or any other person to do any act against his will, shall be punished by imprisonment in the State prison not exceeding ten years.

ARTICLE 5.

DEADLY WEAPONS.

Chap. 3630, sec.
1, Feb. 12, 1885.

2421. Carrying concealed weapons.—Whoever shall secretly carry arms of any kind on or about his person, or whoever shall have concealed on or about his person any dirk, pistol or other weapon, except a common pocket knife, shall be punished by imprisonment not exceeding six months, or by fine not exceeding one hundred dollars.

Partial concealment is a violation.—*Sutton v. State*, 12 Fla., 135.

Ib., sec. 2.

2422. Given in special charge to grand jury.—The circuit judges shall charge the grand juries specially upon the crime of carrying concealed weapons, and the State attorney shall receive a fee of ten dollars for each conviction therefor.

Chap. 1635, sub-
chap. 5, sec. 10.
Aug. 6, 1885.

2423. Persons engaged in criminal offence having weapons.—Whoever, when lawfully arrested while committing a criminal offence or a breach or disturbance of the public peace, is armed

Tab 8

Pistols, Carrying of Prohibited.

PISTOLS, CARRYING OF PROHIBITED.

No. 432.

An Act to prohibit any person from having or carrying about his person, in any county in the State of Georgia, any pistol or revolver without first having obtained a license from the Ordinary of the county of said State, in which the party resides, and to provide how said license may be obtained and a penalty prescribed for a violation of the same, and for other purposes.

Pistols, carrying without license, prohibited.

AM
1861
1862

SECTION 1. Be it enacted by the General Assembly of Georgia, and it is hereby enacted by authority of the same, That from and after passage of this Act it shall be unlawful for any person to have or carry about his person, in any county in the State of Georgia, any pistol or revolver without first taking out a license from the Ordinary of the respective counties in which the party resides, before such person shall be at liberty to carry around with him on his person, or to have in his manual possession outside of his own home or place of business, *provided* that nothing in this Act shall be construed to alter, affect or amend any laws now in force in this State relative to the carrying of concealed weapons on or about one's person, and *provided further*, that this shall not apply to sheriffs, deputy sheriffs, marshals, or other arresting officers of this State or United States, who are now allowed, by law, to carry revolvers; nor to any of the militia of said State while in service or upon duty; nor to any students of military colleges or schools when they are in the discharge of their duty at such colleges.

SEC. 2. Be it further enacted, That the Ordinary of the

Safes, Vaults, etc., Tools for Opening, Possession of.

respective counties of this State in which the applicant resides may grant such license, either in term time or during vacation, upon the application of party or person desiring to apply for such license; *provided* applicant shall be at least eighteen years old or over, and shall give a bond payable to the Governor of the State in the sum of one hundred dollars, conditioned upon the proper and legitimate use of said weapon with a surety approved by the Ordinary of said county, and the Ordinary granting the license shall keep a record of the name of the person taking out such license, the name of the maker of the fire-arm to be carried, and the caliber and number of the same.

SEC. 3. The person making such application and to whom such license is granted, shall pay to the Ordinary for granting said license the sum of fifty cents, which license shall cover a period of three years from date of granting same.

SEC. 4. Be it further enacted, That any person violating any of the provisions of the above Act shall be punished as for a misdemeanor, as prescribed in Section 1039 of the Penal Code of 1895, and amendments thereto.

SEC. 5. Be it further enacted, That all laws and parts of laws in conflict with this Act be, and the same are, hereby repealed.

Approved August 12, 1910.

SAFES, VAULTS, ETC., TOOLS FOR OPENING, POSSESSION OF.

No. 526.

An Act to make it unlawful for any person to make or mend, or cause to be made or mended, or to have in his pos-

License,
how obtain-
ed.

Fee for li-
cense.

Violations of
this Act,
punishable.

Tab 9

ACT 206

[H. B. No. 322]

AN ACT REGULATING THE SALE, TRANSFER AND POSSESSION OF CERTAIN FIREARMS AND AMMUNITIONS, AND AMENDING SECTIONS 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2146 AND 2147 OF THE REVISED LAWS OF HAWAII 1925.*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Definitions. "Pistol" or "revolver" as used in this Act, means any firearm with barrel less than twelve inches in length.

"Crime of Violence", as used in this Act means any of the following crimes, namely, murder, manslaughter, rape, mayhem, assault to do great bodily harm, robbery, larceny, burglary and house-breaking.

SECTION 2. Committing crime when armed. If any person, when armed with a pistol or revolver, shall commit or attempt to commit an act constituting a crime of violence, he may in addition to the punishment otherwise provided for the crime, be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars (\$1,000.00) or by both; provided, that the act aforesaid be one which is capable of being committed or facilitated by means of a pistol or revolver.

SECTION 3. Being armed *prima facie* evidence of intent. In the trial of a person for committing or attempting to commit a crime of violence, the fact that he was armed with a pistol or revolver and had no license to carry the same, shall be *prima facie* evidence of his intention to commit said crime of violence; provided, that the criminal act committed or attempted be one which is capable of being committed or facilitated by means of a pistol or revolver.

SECTION 4. Persons forbidden to possess small arms. No person who has been convicted in this territory, or elsewhere, of having committed or attempted a crime of violence, shall own or have in his possession or under his control, a pistol or revolver.

SECTION 5. Carrying or keeping small arms by unlicensed persons. Except as otherwise provided in Sections 7 and 11 hereof in respect of certain licensees, no person shall carry, keep, possess or have under his control a pistol or revolver; provided, how-

ever, that any person who shall have lawfully acquired the ownership or possession of a pistol or revolver may, for purposes of protection and with or without a license, keep the same in the dwelling house or business office personally occupied by him, and, in case of an unlawful attack upon any person or property in said house or office, said pistol or revolver may be carried in any lawful, hot pursuit of the assailant.

SECTION 6. Exceptions. The provisions of the preceding section shall not apply to marshals, sheriffs, prison or jail wardens or their deputies, policemen, mail carriers, or other duly appointed law enforcement officers, or to members of the Army, Navy, or Marine Corps of the United States, or of the National Guard, when on duty, or of organizations by law authorized to purchase or receive such weapons from the United States or this territory, or to officers or employees of the United States authorized by law to carry a concealed pistol or revolver, or to duly authorized military organizations when on duty, or to the members thereof when at or going to or from their customary places of assembly, or to the regular and ordinary transportation of pistols or revolvers as merchandise, or to any person while carrying a pistol or revolver unloaded in a wrapper from the place of purchase to his home or place of business, or to a place of repair or back to his home or place of business or in moving goods from one place of abode or business to another.

SECTION 7. Issue of licenses to carry. The judge of a court of record or the sheriff of a county, or city and county, shall, upon the application of any person having a bona fide residence or place of business within the jurisdiction of said licensing authority, or of any person having a bona fide residence or place of business within the United States and a license to carry a pistol or revolver concealed upon his person or to carry one elsewhere than in his home or office, said license being issued by the authorities of any state or political subdivision of the United States, issue a license to such person to carry a pistol or revolver within this territory elsewhere than in his home or office, for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a pistol or revolver, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the treasurer of the territory, and shall bear the name, address, description and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee; the duplicate shall, within seven days, be sent by registered mail, to the treasurer of the territory and the

triplicate shall be preserved for six years by the authority issuing said license.

SECTION 8. Selling to minors. No person shall sell, barter, hire, lend, or give any pistol or revolver to any person under the age of eighteen years.

SECTION 9. Transfers regulated. No person shall transfer by way of sale, gift, loan or otherwise, a pistol or revolver unless the prospective transferee, when he applies for the transfer, presents a permit duly granted under Section 2141 of the Revised Laws of Hawaii 1925; nor shall he make such transfer unless the transferee be a person in respect of whom there is no reasonable cause, known to the transferor, for believing that such transferee has committed or attempted, or has been convicted of committing or attempting, a crime of violence. No seller shall in any event deliver a pistol or revolver on the day when the application to purchase and the statement hereinafter mentioned shall be made. When delivered, said pistol or revolver shall be securely wrapped and shall be unloaded. Before a delivery be made the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, race, nationality, color, and place of birth, the date of sale, the caliber, make, model, and manufacturer's number of the weapon, and stating that he has never been convicted of a crime of violence. The seller shall promptly sign and forward by registered mail one copy thereof to the treasurer of the territory, and one copy thereof to the sheriff of the county or city and county of which the seller is a resident, and shall retain the other copy for six years. A statement shall be deemed promptly forwarded if it is forwarded within seven days, unless a shorter time is provided therefor in regulations established by the Governor.

SECTION 10. Dealers to be licensed. No retail dealer or selling agent shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol or revolver without being licensed as hereinafter provided.

SECTION 11. Dealers' Licenses; by whom granted, and conditions thereof. The duly constituted licensing authorities of any political subdivision of this territory may grant licenses in form prescribed by the treasurer of the territory, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city or town or political subdivision, pistols and revolvers, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license.
2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.
3. No pistol or revolver shall be delivered unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.
4. The seller shall faithfully comply with the requirements of Section 9 hereof and with all other provisions of this Act and of Chapter 128, Revised Laws of Hawaii 1925. A copy of the statement required by Section 9 hereof shall be entered by the seller in a book of record to be kept in his place of business and to be always open to the inspection of the officers and authorized representatives of the territorial government, including the police. Said book shall be preserved for six years.
5. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.

No license to sell at retail shall be granted to anyone except as provided in this section.

SECTION 12. False information forbidden. No person shall, in purchasing or otherwise securing delivery of a pistol or revolver, or in applying for a license to carry the same, give false information or offer false evidence of his identity.

SECTION 13. Alteration of identifying marks prohibited. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number or other mark of identification on any pistol or revolver. Possession of any pistol or revolver upon which any such mark shall have been changed, altered, removed, or obliterated, shall be *prima facie* evidence that the possessor has changed, altered, removed or obliterated the same.

SECTION 14. Existing licenses revoked. All licenses heretofore issued within this territory permitting the carrying of pistols or revolvers shall expire at midnight of the 30th day of June, 1927.

SECTION 15. Exceptions. This Act shall not apply to antique pistols or revolvers unsuitable for use as firearms.

SECTION 16. Act supersedes local laws. The provisions of this Act shall be effective and controlling throughout this territory, notwithstanding the provisions of any local law or ordinance.

SECTION 17. Penalties. Any violation of any provision of this Act shall constitute an offense punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than one year, or both.

SECTION 18. Section 2136 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2136. Report upon acquiring title to or possession of firearms or ammunition. Except as otherwise provided by law, any person, firm, corporation or copartnership, residing or doing business within the territory acquiring title or possession or importing into (by express or otherwise) or receiving within the territory any firearm or any ammunition, capable of causing death or inflicting great personal injury, who shall fail to file a description of the same in the manner provided by this chapter, shall be deemed guilty of a misdemeanor and punished as this chapter provides. Except in so far as the acquisition of title to or possession of a firearm or of ammunition may be reported by the dealer or selling agent under the provisions of Section 2140 hereof, such person, firm, corporation or copartnership shall, within two weeks after such acquisition, importation or receipt, file a report with the sheriff of the county or city and county wherein his or its place of business, or if there be none within the territory, his or its residence, or if there be neither residence nor place of business therein, his place of sojourn therein, is located. Said report shall include a description of the class of firearm or firearms or/and ammunition owned by him, it or them or in his, its or their possession, which description shall set forth the class of firearm or firearms or/and ammunition so owned and possessed, together with the name of the maker and the factory number, when such number appears on such firearm or firearms or ammunition.

The Governor may, in his discretion, require the filing in like manner, at a time or at times to be fixed by him, of like reports by all persons, firms, corporations or copartnerships owning or possessing, at a date or at dates to be announced by the Governor, any firearm or ammunition within this territory; provided, that at least one month shall expire between the publication or announcement of the Governor's said requirement and the time fixed for filing. Where any person responsible for making a report hereunder is unable to furnish all of the information herein or hereby required, he shall furnish as much as may be possible and in such manner as may be required by the sheriff."

SECTION 19. Section 2137 of the Revised Laws of Hawaii 1925, is hereby amended by inserting the words "acquired or" before the words "in possession," in the caption preceding the required form.

Strike out the words "owned by him or in my possession" appearing in the certificate in the required form, and insert in lieu thereof the words "acquired, imported or otherwise received by me." At the end of Section 2137, add the following: "Note: In case a special report is required by the Governor under the terms of this section, the person making the report should strike out the words "acquired, imported or otherwise received by me" and insert in lieu thereof, the words "owned by me or in my possession."

SECTION 20. Section 2138 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2138. Information required and furnished Governor. It shall be the further duty of the sheriff to enter in a book to be provided for such purpose, all information thus furnished him relative to the ownership, acquisition, importation, delivery and possession of firearms and ammunition, which book shall be an exact duplication of the descriptions furnished, and, further, to furnish to the Governor not later than the 20th day of January and the 20th day of July of each and every year, an exact report, a complete copy of the description and information so furnished as aforesaid and as required by Sections 2139 and 2140 hereof."

SECTION 21. Section 2139 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2139. Further information. It shall be the duty of every person, firm, corporation, copartnership, dealing in firearms or/and ammunition at wholesale or at retail, including commission merchants and selling agents, to furnish to the sheriff of the county or city and county in which such person resides, or wherein such business is carried on, on the first day of January and the first day of July of each and every year, a list of all firearms and ammunition in his, their or its possession, and likewise at the times mentioned, furnish to such sheriff a list of all arms brought into the territory, in transit or otherwise, by him, them or it during the six months next preceding such date upon which such list and description is required to be filed; the lists thus to be furnished by such dealers in firearms and ammunition shall comply as nearly as possible with the requirements of Sections 2136 and 2137, as may be determined by such sheriff.

It shall be the duty of the sheriff to inspect the shops, stores, warehouses and other business premises of such dealers, commission merchants and selling agents, to verify the accuracy of the reports made and to ascertain whether any required reports have been omitted."

SECTION 22. Section 2140 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2140. Sale of firearms or ammunition; report. Whenever any person, firm, corporation, copartnership, dealing in or keeping for sale firearms or ammunition, shall make a sale of any firearms or ammunition or shall in any manner dispose of the same to any person, it shall be the duty of such person, firm, corporation, copartnership, promptly to make an official written report of said transaction and to include therein such information as shall satisfy the requirements of this chapter. A report shall be deemed promptly made, if it is forwarded within seven days, unless a shorter time is provided therefor in regulations established by the Governor. As to a sale of firearms of any size or class whatever, said report shall conform, in respect of the manner of signing, of the information included, of the officials to whom it shall be forwarded and of all other particulars, with the requirements prescribed as to a sale of pistols or revolvers by Sections 9 and 11 of the Small Arms Act and a record of the facts contained in said report shall be made in the book required by Section 11 of the Small Arms Act or in a similar book of record, open to inspection by any proper officer or his representative. As to a sale of ammunition, said report shall be made to the sheriff of the county wherein the sale or disposition thereof takes place; it shall contain (1) the name of the owner; (2) in case of a sale, the names of vendor and vendee; (3) the name of the recipient of the ammunition, in the event that it be delivered to some one other than the vendee or his employee; (4) the date of the sale or disposition; and (5) a description of the character and quantity of such ammunition."

SECTION 23. Section 2141 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2141. No delivery without permit to acquire. No person owning, possessing or entitled to dispose of a firearm of any class, whether or not he be a dealer in firearms, shall deliver a firearm to another person, unless the latter present a permit, in duplicate, authorizing the acquisition by him of a firearm of the kind or class to be delivered and bearing date on a day during the preceding thirty days. Such permits shall be issued by the sheriff of the county or city and county wherein the applicant resides, or, in the case of non-residents, by the sheriff of the county of his sojourn; provided (1) that the applicant is found not to be a habitual criminal or a person who has been convicted in a court of the territory, or in any other court, of having committed or attempted a crime of violence, as that phrase is defined in the Small Arms Act; and (2) that the applicant is found not to be an

anarchist or a person who desires the overthrow of the government of the United States or the diminution of its territory or domain or a person who, if armed, would tend to imperil or weaken the government of the United States or of the territory. The person making delivery of any firearm, whether by virtue of a sale, a gift, a loan or otherwise, shall send to the proper sheriff, by registered mail, one copy of the permit, presented to him as aforesaid; such sheriff being the one by whom the permit was issued. The other copy of the permit shall, for sixty days, be retained by the person making delivery as aforesaid. Such permit shall be subject to inspection by any sheriff or officer of the law or his representative; and it shall be the duty of the person making delivery of the firearm to answer, to the best of his ability, orally, or in writing, (as may be required) any reasonable questions by a proper officer or his representative concerning the identity or description of the firearm so delivered."

SECTION 24. Section 2142 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2142. Penalties. Any person who shall deliver or receive a firearm without complying with the requirements of Section 2141, and any person who shall otherwise violate any provision of said section, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

Any person furnishing information leading to the conviction of any person violating any provision of Section 2141 shall be paid an amount equal to one-half of the fine that may be imposed against the person convicted."

SECTION 25. Section 2143 of the Revised Laws of Hawaii 1925, is hereby amended by inserting, after the first sentence in said section, the following: "The request aforesaid shall include (1) an expression of the belief of such citizens that the applicant has never committed or attempted a crime of violence, as that phrase is defined in the Small Arms Act; that he has never been convicted thereof anywhere and that he is not likely to commit or attempt any such crime and (2) a brief statement of the facts relating to the age, character, nativity and personal history of the applicant, insofar as these facts are within the personal knowledge of such responsible citizens. Such facts as are within the personal knowledge of one of them, only, shall be included in a supplemental written statement signed by the person having such knowledge."

SECTION 26. Section 2146 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2146. Penalties. Any person who shall be found in the possession of any firearm or firearms or any ammunition without having complied with the provisions of this chapter, or who shall fail to give, file or forward required information, reports or statements, or who shall otherwise violate the provisions of this chapter in matters not covered by Section 2142 hereof, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined by the court of appropriate jurisdiction in a sum of not more than five hundred dollars (\$500.00). Any person, firm, corporation, copartnership, failing to file any information herein required to be filed, shall be deemed guilty of a misdemeanor and upon conviction shall be fined by the court of appropriate jurisdiction not more than five hundred dollars (\$500.00).

The divulging of official information recorded or on file in a public office shall be punishable in like manner; provided, however, that where the information divulged has not tended, or been designed to encourage, or to render formidable armed resistance to the law, the fine shall not exceed twenty-five dollars (\$25.00)."

SECTION 27. Section 2147 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2147. Exceptions. The requirements and provisions of this Chapter shall not apply to those who, under Section 6 of the Small Arms Act, are excepted from the provisions of Section 5 of that Act."

SECTION 28. Constitutionality. If any part of this Act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this Act.

SECTION 29. Short title. The first seventeen sections of this Act are herein referred to as the "Small Arms Act," by which designation such sections may be cited.

SECTION 30. Certain Acts repealed. All laws or parts of laws inconsistent herewith are hereby repealed, but the provisions of Chapter 128, Revised Laws of Hawaii 1925, are not repealed hereby, except where plainly inconsistent herewith.

SECTION 31. This Act shall take effect from and after July 1, 1927.

Approved this 27th day of April, A. D. 1927.

W. R. FARRINGTON,
Governor of the Territory of Hawaii.

Tab 10

ANNOTATED STATUTES

OF THE

STATE OF ILLINOIS

IN FORCE JANUARY 1, 1885

EMBRACING THE REVISION OF 1873, AND ALL GENERAL STATUTES ENACTED SINCE SUCH REVISION, SO FAR AS IN FORCE, WITH DIGESTED NOTES OF DECISIONS CONSTRUING OR ILLUSTRATING THEIR PROVISIONS, BY THE COURTS OF ILLINOIS AND OF THE UNITED STATES, AND HISTORICAL NOTES COMPARING THE PRESENT STATUTES WITH PREVIOUS LEGISLATION

EDITED BY
MERRITT STARR
AND
RUSSELL H. CURTIS
OF THE CHICAGO BAR

VOLUME I

CHICAGO
CALLAGHAN AND COMPANY
LAW BOOK PUBLISHERS
1885

moral purpose, exhibition or practice whatsoever, or for, or in any business, exhibition or vocation injurious to the health or dangerous to the life or limb of such child, or cause, procure, or encourage any such child to engage therein. Nothing in this section contained shall apply to, or affect the employment or use of any such child as a singer or musician in any church, school or academy, or at any respectable entertainment, or the teaching or learning the science or practice of music.

*** 83. Children — Unlawful to exhibit.]** § 2. It shall also be unlawful for any person to take, receive, hire, employ, use, exhibit, or have in custody any child under the age and for the purposes prohibited in the first section of this Act.

*** 84. Order as to custody.]** § 3. When upon examination before any court or magistrate it shall appear that any child within the age previously mentioned in this Act was engaged or used, for or in any business, or exhibition, or vocation, or purpose prohibited in this Act; and when upon the conviction of any person of a criminal assault upon a child in his or her custody, the court or magistrate before whom such conviction is had, shall deem it desirable for the welfare of such child, that the person so convicted should be deprived of its custody; thereafter such child shall be deemed to be in the custody of court, and such court or magistrate may, in its discretion, make such order as to the custody thereof as now is, or hereafter may be, provided by law in cases of vagrant, truant, disorderly, pauper, or destitute children.

*** 85. Endangering life or health.]** § 4. It shall be unlawful for any person having the care or custody of any child, willfully to cause or permit the life of such child to be endangered, or the health of such child to be injured, or willfully cause or permit such child to be placed in such a situation that its life or health may be endangered.

*** 86. Penalty.]** § 5. Any person convicted under the provisions of the preceding sections, shall for the first offense be fined not exceeding one hundred dollars, or imprisoned in the county jail not exceeding three months, or both, in the discretion of the court; and upon conviction for a second or any subsequent offense shall be fined in any sum not exceeding five hundred dollars, or imprisonment in the penitentiary for a term not exceeding two years, or both, in the discretion of the court.

[General Act of 1871 renumbered.]

CURRENCY UNAUTHORIZED.

*** 87. Issuing or uttering.]** § 51. Whoever issues or passes any note, bill, order or check, other than foreign bills of exchange, the notes or bills of the United States, or of some bank incorporated by the laws of this State, or of the United States, or of some one of the United States, or by the laws of either of the British provinces in North America, with intent that the same shall be circulated as currency, shall be fined not less than 100 nor more than \$1,000 for each offense, and shall not be permitted to collect any demand arising therefrom.

10th a. 1871, S. 1815, p. 175, 5 U.S. and L. 1897, p. 49, 44.

DEADLY WEAPONS.

An Act to regulate the traffic in deadly weapons, and to prevent the sale of them to minors. Approved April 10, 1891. In force July 1, 1891. L. 1891, p. 73.

*** 88. Possession or sale forbidden — Penalty.]** § 1. *Be it enacted* by the People of the State of Illinois, represented in the General Assembly, That whoever shall have in his possession, or sell, give or loan, hire or barter, or

whoever shall offer to sell, give, loan, hire or barter, to any person within this State, any shotgun, or metallic knuckles, or other deadly weapon of like character, or any person in whose possession such weapons shall be found, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten dollars (\$10) nor more than two hundred dollars (\$200).

¶ 89. Deadly weapons — Not to be sold minors. § 2. Whoever, not being the father, guardian or employer of the minor herein named, by himself or agent, shall sell, give, loan, hire or barter, or shall offer to sell, give, loan, hire or barter to any minor within this State, any pistol, revolver, derringer, bowie knife, dirk or other deadly weapon of like character, capable of being concealed upon the person, shall be guilty of a misdemeanor, and shall be fined in any sum not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200).

¶ 90. — Register of sales — Penalty. § 3. All persons dealing in deadly weapons, hereinafter mentioned, at retail within this State shall keep a register of all such weapons sold or given away by them. Such register shall contain the date of the sale or gift, the name and age of the person to whom the weapon is sold or given, the price of the said weapon, and the purpose for which it is purchased or obtained. The said register shall be in the following form:

NO. OF WEAPONS.	TO WHOM SOLD OR GIVEN.	AGE OF PURCHASER.	KIND AND DESCRIPTION OF WEAPON.	FOR WHAT PRICE PURCHASED OR OBTAINED.	PRICE OF WEAPON.

Said register shall be kept open for the inspection of the public, and all persons who may wish to examine the same may do so at all reasonable times during business hours. A failure to keep such register, or to allow an examination of the same, or to record therein any sale or gift of a deadly weapon, or the keeping of a false register, shall be a misdemeanor, and shall subject the offender to a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200).

¶ 91. Concealed weapon — Flourishing weapon. § 4. Whoever shall carry a concealed weapon upon or about his person of the character in this Act specified, or razor as a weapon, or whoever, in a threatening or belligerent manner, shall display or flourish any deadly weapon, shall be guilty of a misdemeanor, and shall be fined in any sum not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200).

¶ 92. Penalties — How recovered — Second offense. § 5. All fines and penalties specified in this Act may be recovered by information, complaint or indictment, or other appropriate remedy, in any court of competent jurisdiction; and, when recovered, shall be paid into the county treasury of the county where the conviction is had, and become a part of the current revenue of the county; or the said fines and penalties may be recovered by *qui tam action*, and shall be paid to the informer, and the other half to be paid into the county treasury, as aforesaid. For a second violation of any of the provisions of this Act, the offender shall be fined in double the amount herein specified, or may be committed to the county jail for any term not exceeding twenty days, in the discretion of the court.

¶ 93. Peace officers exempt. § 6. Section four (4) of this Act shall not apply to deputized constables, policemen or other peace officers, while engaged in the discharge of their official duties, or to any person sum-

moned by any of such officers to assist in making arrest, or preserving the peace, while such person so summoned is engaged in assisting such officer.

¶ 94. Repeal. § 7. All Acts and parts of Acts in conflict with this Act are hereby repealed.

[General Act of 1874 resumed.]

REPEAL OF THE 1874 ACT.

¶ 95. Crime — Punishment. § 55. Whoever shall be guilty of open lewdness, disorderly conduct, or other notorious act of public indecency, tending to debauch the public morals, shall be fined not exceeding \$200.

Inch. of R. S. 1874, p. 174, § 127.

¶ 96. Disturbing the peace — Concealed weapons. § 56. Who ever wilfully disturbs the peace and quiet of any neighborhood or society, by loud or unusual noises, or by tumultuous or offensive carriage, threatening, traducing, cursing, challenging to fight or fighting, or whoever shall carry concealed weapons, or in a threatening manner display any pistol, knife, shotgun, brass-stick, or pistol-matches, or other deadly weapon, shall be fined not exceeding \$100.

* As amended by L. 1879, p. 111, May 24, July 1.

Section 56 of A. of 1874 was R. S. 1874, p. 174, § 102, rewritten, with penalty changed. Section 56 of A. of 1874 contained words, "Whoever shall at late and unusual hour of the night tumultuous and disorderly — day or night," which words in single quoted marks were omitted by an enactment of 1879.

Disturbance of one person in a neighborhood, and disturbance of neighborhood, under similar statute of 1874, ch. 39, § 112. See 6, 11, 13, 39, 96.

[General Act of 1874 resumed.]

¶ 97. Disorderly house — Ill fame — Penalty. § 57. Whoever keeps or maintains a house of ill fame or place for the practice of prostitution or lewdness, or whoever patronizes the same, or lets any house, room, or other premises for any such purpose, or shall keep a common, disorderly and disorderly house, to the encouragement of illness, gaming, drinking, temptation or other misbehavior or, shall be fined not exceeding \$200. When the lessor or keeper of a dwelling house or other building is convicted under this section, the lease or contract for letting the premises shall, at the option of the lessor, become void, and the lessor may have the like remedy to recover the possession against a tenant holding over after the expiration of a term. And whoever shall lease to another any house, room or other premises, in whole or in part, for any of the uses or purposes hereinbefore set forth in this section, or knowingly permits the same to be so used or occupied, shall be fined not exceeding \$200, and the lease or premises so leased, occupied or used shall be held liable for and may be sold for any judgment obtained under this section, but if such building or premises belongs to a minor or other person under guardianship, then the guardian or conservator and his property shall be liable instead of such ward, and his property shall be subject to be sold for the payment of said judgment.

Inch. of R. S. 1874, p. 174, § 27.

* Patrons are persons going to such place for entertainment, as distinguished from inmates.

— Keeper of house or place. — R. v. y. m. & P. 9 H. App. 9 Brad., 344.

Lease of building or other immovable property. — 11.

Law and practice in regard to keepers of houses. — Bow. of Parson, P. 27, § 76.

Tab 11

THE

GENERAL STATUTES OF KENTUCKY.

AS AMENDED BY THE ACTS OF THE LEGISLATURE, AND BY
APPROVED, WILIAM HARRISON, GOVERNOR, APRIL 17,
THE THIRTY-EIGHTH DAY.

BY AN ACT APPROVED APRIL 17, 1850.

THESE ARE PUBLISHED

MAGNA CHARTA, THE CONSTITUTION OF THE UNITED STATES,
THE CONSTITUTION OF KENTUCKY, AND THE
OTHER DOCUMENTS ORDERED BY LAW

BY THE LEGISLATURE.

APPENDICES CONTAINING ALL ACTS

OF A PUBLIC NATURE WHICH HAVE BEEN APPROVED.

1850.

NOTES AND REFERENCES TO DECISIONS

1850.

CODE OF MENS, AND A NEW INDEX

1850.

J. E. BULLETT AND JOHN FELAND.

THE GENERAL ASSEMBLY
OF THE STATE OF KENTUCKY,
SECOND, THIRTY-EIGHTH EDITION
1850.

§ 7. If any person unlawfully, but not with felonious intention, take, carry away, deface, destroy, or injure any property, real or personal, or other thing of value not his own, or willfully and knowingly, without a felonious intention, break down, destroy, injure, or remove any monument erected to designate the boundaries of this State, or any county, city, or town thereof, or the boundaries of any tract or lot of land, or any tree marked, or post or stone planted for that purpose, he shall be fined not less than ten nor more than two thousand dollars.

§ 8. If any person shall willfully and unlawfully cut down or destroy, by baling, toppling, or otherwise, any fruit or shade tree of another, or quarry stone on the land, pull down or open the fence or gate, destroy or injure the vegetables, trees, or shrubbery of any other person, he shall be fined not less than five nor more than five hundred dollars.

§ 9. If any person willfully and unlawfully pull down or injure a church, court house, school house, or other public building, he shall be fined not less than five nor more than five thousand dollars.

ARTICLE XXIX.

Deadly Weapons.

§ 1. If any person shall carry concealed a deadly weapon upon or about his person other than an ordinary pocket knife, or shall sell a deadly weapon to a minor other than an ordinary pocket knife, such person shall, upon indictment and conviction, be fined not less than twenty-five nor more than one hundred dollars, and imprisoned in the county jail for not less than ten nor more than thirty days, in the discretion of the court or jury trying the case.

§ 2. That it shall be the duty of all ministerial officers in this State to apprehend such violator within their knowledge of this act, and to take such persons before a magistrate of the county in which said offense was committed; and if said magistrate shall, upon hearing the evidence, believe such accused person guilty of the offense charged, he shall require such accused person to give such bail as will insure his or her appearance at the next term of the circuit court for said county, to answer any indictment found against him or her in said court for said offense.

§ 3. If any such officer shall knowingly and wilfully fail to execute, or refuse to discharge, the duties imposed and required of him under this act, he shall, upon indictment found by the grand jury of his county, and on conviction, be fined in a sum of not less than one hundred nor more than five hundred dollars.

Penalty for failing to execute or refuse to discharge the duties imposed and required of him under this act.

§ 4. That if judgment shall be confessed under this article, the penalty shall be the highest punishment imposed by this article.

§ 5. Carrying concealed deadly weapons shall be lawful in the following cases: 1st. When the person has reasonable grounds to believe his person or the person of some of his family, or his property is in immediate danger from violence or crime; 2d. By sheriffs, constables, marshals, policemen, and other ministerial officers, when necessary for their protection in the discharge of their official duties.

ARTICLE XXX.

Perjury, Broken- ing, and Lobbying.

Charters, grants, &c., for fee or reward, or the promise thereof.

§ 1. If any person other than an officer of this Commonwealth, for fee or reward, or the promise thereof, shall engage, or assist in procuring the passage of any bill, or act, or the rejection thereof, by the General Assembly, not being a member thereof, or the granting or refusing of a pardon, or remission or respite of any punishment or fine, by the Governor, he shall be fined not less than twenty nor more than five hundred dollars; but this section shall not apply to an attorney at law, or other person who may orally, or in writing, appear before any committee of the General Assembly, or either House thereof, in advocacy of the passage of a bill or act, or the rejection thereof by the General Assembly or any such committee.

Charters, grants, &c., for fee or reward, or the promise thereof.

§ 2. If any officer of this State, or a member of the General Assembly, or either thereof, shall, for fee, reward, or promise thereof, engage or assist in the prosecution, or in procuring the allowance or payment of any claim against this State, or in procuring the passage or rejection of a bill or act by the General Assembly, or in procuring a pardon or remission of a fine, or the refusal of either by the Governor, he shall be fined not less than twenty dollars, forfeit his office and right to hold office. The proper courts of Franklin county, or of the residence of the offender, shall have jurisdiction under this and the next preceding section.

Tab 12

and he hereby is appointed a Committee to take and return an Account of the Number of the like Inhabitants of the County of *Hampshire*. And that Mr. *Simon Fry*, Major *Ichabod Goodwin*, and *William Bradbury*, be and hereby are appointed a Committee to take and return an Account of the Number of the like Inhabitants in the County of *York*. And that Messieurs *David Barker*, *George Freeman*, *John Naf*, *Isaac Parsons*, and *Phinehas Frost*, be, and hereby are appointed a Committee to take and return an Account of the Number of the like Inhabitants in the County of *Cumberland*. And that *Ezekiel Pettis*, Esq; Col. *William Jones*, Mr. *James Minot*, Col. *Jonathan Buck*, and Col. *Alexander Campbell*, be, and hereby are appointed a Committee to take and return an Account of the Number of the like Inhabitants in the County of *Lincoln*. And the Members of each of the said Committees, shall and hereby are impowered to act severally in the said Business, and each one of them shall take and return the Number of all such Inhabitants as dwell on such particular and several Districts or Divisions of Land in the said Counties of *Berkshire*, *Hampshire*, *York*, *Cumberland*, and *Lincoln*, as shall be agreed on and determined by the said Committees respectively.

And be it Enacted, That the Parent, Master or Mistress of any Family, the Penalty for Number whereof is by this Act to be taken by such Committee, who shall refuse heads of Families to give a just and true Account of the Number of his or her Family, shall forfeit and pay the like Sum, in the like Use, and be recovered in the like Manner, as a just account before in this Act is provided, to be forfeited by, and recovered of the Heads of the Families dwelling in Towns who shall refuse to give a true Account of the Numbers in their heads of his or her Family, to the Selectmen of the Towns to which they belong.

And be it further Enacted, That each and every one of the Selectmen, Selectmen & the Committee aforesaid, shall, before they enter upon the Service Committees aforesaid, take the Oath or Affirmation herein after prescribed, before some to be under Justice of the Peace for the County, or the Town Clerk of the Town Oath, to which such Selectmen or Committee shall respectively belong, who are hereby respectively empowered to administer the same.

And be it further enacted, That the Oath or Affirmation to be administered to each of the said Selectmen and Committees, shall be *mutatis mutandis*, in the Form following, viz.

YOU A. B. do solemnly Swear, that you will faithfully and truly execute Form of the and perform the Duty and Service required of you, by one A. B. or Law of this Oath.
Colony, intituled, An Act for the carrying into Execution a Resolve of the American Congress, for ascertaining the Number of Inhabitants in this Colony.
So help you G O D.

C H A P. VII.

An Act for the executing in the Colony of the *Massachusetts-Bay*, in *New-England*, one Resolve of the *American Congress*, dated *March 14, 1776*, recommending the disarming such Persons as are notoriously disaffected to the Cause of *America*, or who refuse to associate to defend by Arms the *United American Colonies*, against the hostile Attempts of the *British Fleets and Armies*, and for the restraining and punishing Persons who are inimical to the Rights and Liberties of the said *United Colonies*, and for directing the Proceedings therein.

WHEREAS on the fourteenth of March One Thousand seven Hundred and Seventy-six, a certain Resolve was made and passed by the *American Congress*.

Congress, of the following Tenor, viz. "Resolved, That it be recommended to the several Assemblies, Conventions and Councils, or Committees of Safety of the United Colonies, immediately to cause all Persons to be disarmed within their respective Colonies, who are notoriously disaffected to the Cause of America, or who have not associated and refuse to associate to defend by Arms these United Colonies, against the hostile Attempts of the British Fleets and Armies; and to apply the Arms taken from such Persons in each respective Colony, in the first Place, to the arming of the Continental Troops raised in said Colony; in the next, to the arming such Troops as are raised by the Colony for its own Defence, and the Residua to be applied to the arming the Associators; that their Arms when taken, be appraised by indifferent Persons, and such as are applied to the arming Continental Troops, be paid for by Congress; and the Residue by the respective Assemblies, Conventions or Councils, or Committees of Safety" :

Ali Persons who refuse the Test to be disarmed.

Be it therefore enacted by the Council, and House of Representatives in General Court assembled, and by the Authority of the same, That every Male Person above sixteen Years of Age, resident in any Town or Place in this Colony, who shall neglect or refuse to subscribe a printed or written Declaration of the Form and Tenor herein after prescribed, upon being required thereto by the Committee of Correspondence, Inspection and Safety of the Town or Place in which he dwells, or any one of them, shall be disarmed, and have taken from him in Manner hereafter directed, all such Arms, Ammunition and Warlike Implements, as by the strictest Search can be found in his Possession or belonging to him; which Declaration shall be in the Form and Words following, viz.

The Form of declare, before God and the World, that we verily believe that the War, Resistance and Opposition in which the United American Colonies are now engaged against the Fleets and Armies of Great-Britain, is on the Part of the said Colonies just and necessary: And we do hereby severally promise, covenant and engage to and with every Person of this Colony, who has or shall subscribe this Declaration, or another of the same Tenor and Words, that we will not during the said War, directly or indirectly, in any Way aid, abet or assist any of the Naval or Land Forces of the King of Great-Britain, or any employed by him, or supply them with any Kind of Provisions, Military or Naval Stores, or hold any Correspondence with, or communicate any Intelligence to any of the Officers, Soldiers or Mariners belonging to the said Army or Navy, or enlist, or procure any others to enlist into the Land or Sea Service of Great-Britain, or take up or bear Arms against this or either of the United Colonies, or undertake to pilot any of the Vessels belonging to the said Navy, or in any other Way aid or assist them; but on the contrary, according to our best Power and Abilities, will defend by Arms the United American Colonies, and every Part thereof, against every hostile Attempt of the Fleets and Armies in the Service of Great-Britain, or any of them, according to the Requirements and Directions of the Laws of this Colony that now are or may hereafter be provided for the Regulation of the Militia thereof.

Mode of proceeding against Delinquent. And be it further enacted by the Authority aforesaid, That the Committee of Correspondence, Inspection and Safety in each and every Town and Place in this Colony, or some one Member of such Committee, shall without Delay tender the said Declaration to every Male Person in their respective Town and Places above the Age of sixteen Years, requiring them severally to subscribe the same with his Name or Sign in his or their Presence; and if any one shall refuse or neglect so to do for the Space of twenty-four Hours after such Tender is made, the said Committee, or some one of them, shall forthwith give Information of such Refusal or Neglect, to some Justice of the Peace for the County in which such Delinquent dwells: And the Justice to whom such Information is given, shall forthwith make his Warrant, directed to the Sheriff of the same County.

County, or his Deputy, or one of the Constables of the Town in which such supposed Delinquent hath his usual Place of Abode, or any indifferent Person, by Name requiring him forthwith to take the Body of such Delinquent, and him bring before the said Justice to answer to such Information, and to shew Cause, if any he hath, why he should not be disarmed, and have taken from him all his Arms, Ammunition and Warlike Implements; and in Case it shall be made to appear to the said Justice, that the said Information is true, and he should not shew any sufficient Cause why he should not forthwith be disarmed, &c. then the said Justice shall make his Warrant, directed to some proper Person, requiring him, without Delay, to disarm the said Delinquent, and take from him all his Arms, Ammunition and warlike Implements; and in case such Delinquent shall refuse to resign and give up all his Arms, Ammunition and warlike Implements, the Person to whom the said Warrant is directed, shall have Power, after demanding Admission to enter the Dwelling House, or any other Place belonging to the Delinquent, where he may have Reason to suspect such Arms are concealed, and make strict and diligent Search for the Articles aforesaid: And in case he shall find any of the said Articles, he shall take them, and immediately carry and deliver them to the Justice who made the said Warrant, which Justice is hereby required to receive them, and to appoint some indifferent and judicious Person or Persons to appraise the same; and the said Justice shall keep a true Account of all such Arms, Ammunition and Accoutrements, the Person or Persons they were taken from, and the Sum or Sums they were appraised at, and shall return a true Account thereof into the Secretary's Office as soon as may be, and shall keep the said Arms, &c. safely to be disposed of and paid for as the General Court shall order. And if the Person to whom the Warrant is directed, shall meet with Resistance, or shall have Reason to apprehend that he shall meet with Resistance in the Execution of the said Warrant, then he shall give Information thereof to the Justice of the Peace who issued the said Warrant, who if he shall judge it needful for carrying such Warrant into Execution, shall go in Person to some Military Officer in the same County, and require him immediately to raise such a Number of the Militia as the said Justice shall judge necessary, and the said Justice shall proceed in Person with the said Militia, and the Person to whom the said Warrant is directed, and in the most prudent Way he can, cause the Delinquent to be disarmed, and all the Articles aforesaid to be taken from him, and appraised and retained in Manner as is above directed.

And in case it shall be made to appear to any Justice of the Peace, that there is Reason to suppose that any of the Arms, Ammunition or warlike Implements, belonging to any Person who shall refuse or delay as aforesaid to subscribe the said Declaration, are concealed in any Dwelling-House or other Place, not belonging to such Delinquent, such Justice shall have Power, and is hereby directed to make his Warrant to some proper Person, requiring him to make diligent Search in such suspected Place or Places, to be particularly described or mentioned in such Warrant for the Articles aforesaid; and in Case they shall be found, such Proceedings shall be thereupon had touching the same, as is above prescribed, when they are in the actual Possession of the Delinquent aforesaid; and in case of Resistance or Opposition made to the Execution of such Warrant, the like Proceedings shall thereupon be had as are above directed, when Resistance is made to the searching for or taking such Articles, when in the actual Possession of such Delinquent.

And all Officers and Soldiers of the Militia, are hereby directed to obey and observe such Direction as shall be given by such Justice of the Peace in the Premises.

And every Person who shall refuse or neglect to subscribe the said Declaration, having had the same tendered to him as aforesaid, in case he holds any Office Civil or Military in this Colony, shall be deemed and adjudged ipso facto disqualified to exercise any such Office; and if a Town Officer, the Town he belongs to shall, and they hereby are empowered and required to proceed to make Choice

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any Office in
the Colony.

of some fit Person to serve in such Office in his Room: And in case he does not at present hold any such Office, he shall be deemed totally disqualifed to be chosen or appointed, or to hold any such Office, 'till some further Order of the General Assembly. And in case any such Person so refusing or neglecting, shall be chosen or appointed to any Office Civil or Military, all Acts and Doings of such Person in the Execution of any such Office, shall be deemed and held to be null and void, and of none Effect. And no Person so refusing or neglecting, shall be permitted to give his Vote in the Choice of any Person to serve as Representative, in the General Court or Assembly, or in the Choice of any Military, Town or County Officer, until he shall be restored by Order of the General Court, to the Privileges of a good and free Member of this Community.

And from voting for a Representative, or any Military, Town or County Officer, until he shall be restored by Order of the General Court, to the Privileges of a good and free Member of this Community. And no settled Minister or Grammar School-Master, who shall refuse or neglect to sign said Declaration, shall be intituled by the Laws of this Colony, to demand or recover any Salary or Reward for any Time or Service spent or performed in their respective Offices, from and after such Refusal or Neglect, until they shall subscribe such Declaration: And if any of the Governors of *Harvard College*, shall refuse to sign the Declaration aforesaid, they shall be thereby disqualifed to receive any Salaries or Grants of the General Assembly, for Services done after their Refusal as aforesaid.

And be it further enacted by the Authority aforesaid, That if any Person or Persons resident in this Colony, shall during the War aforesaid, directly or indirectly supply the Army or Navy of the King of Great-Britain, or any employed by him, with Provisions, Military or Naval Stores, or shall give any Intelligence to the Officers, Soldiers or Mariners belonging to said Army or Navy, or shall enlist, or procure any other Person or Persons to enlist into the Service of the said Army or Navy, or shall take up or bear Arms against the same or any other of the United Colonies, or shall undertake to pilot any of the Vessels belonging to the said Navy, or in any other Way shall aid or assist the said Army or Navy, every Person so offending, and being thereof duly convicted before the Superior Court of Judicature, &c. shall forfeit all his Estate, which shall be accordingly seized and entered upon by the Order of said Court, for the Use of this Colony: And such Person shall be further punished by Imprisonment, in any of the Gaols in this Colony at the Discretion of the said Court, for a Term not exceeding three Years. And every Person so convicted, shall be totally disqualifed to hold or exercise any Office Civil or Military, and shall not be permitted to give his Vote for any Representative to serve in the General Court or Assembly, or in any Town Meeting for the Choice of any Town or County Officer, or for any Military Officer, until he shall be restored by Order of the General Court, to the Privileges of a good and free Member of this Community.

And be it further enacted, That on Complaint being made by the Soleorman or Committee of Correspondence, Inspection and Safety, or by any Sheriff, Deputy-Sheriff, Constable, Grandjorymen or Tythingmen, in any County in this Colony, to any Justice of the Peace for the same County, against any Person or Persons dwelling or residing in such Town or County; that he or they are inimical to the Liberties of this Colony, and the other United Colonies in America, the said Justice is hereby impowered to issue his Warrant to the Sheriff of the County, his Deputy, or to the Constables of the Town wherein such Person or Persons dwell, requiring him to apprehend and bring before him such Person or Persons to be examined; and if on Examination it shall appear to the said Justice that he or they are inimical and dangerous to the Liberties of this Colony, and the other United Colonies in America, the said Justice shall require such Person or Persons to find Sureties for the Peace and good Behaviour, as also for his Appearance at the next Court of General Sessions of the Peace, or Superior Court of Judicature, &c. to be holden in said County at his Discretion; and for want of sufficient Sureties, shall commit him to the common Gaol in the said County, there to be held until the next Sitting of one of the said Courts, as the said Justice in his said Warrant shall order, and until he be discharged.

charged by such Court, or otherwise by Order of Law. And in case such Person or Person shall before either of the said Courts be found by the Jury upon Trial to be inimical or dangerous to the Liberties of this Colony, or the other United Colonies, the Court shall order that he be immediately disarmed, and shall make their Warrant directed to some proper Officer, requiring him to seize and take all the Arms, Ammunition and warlike Implements belonging to such Criminal, and commit the same to the Clerk of the Court, who shall proceed with such Arms in the same Manner as a Justice of the Peace before in this Act is directed to do with the Arms taken from any Person for Refusal or Neglect to subscribe the Declaration in this Act prescribed; and shall require him to find sufficient Sureties for the Peace and good Behaviour, for any longer Time at their Discretion; and on Default thereof, shall commit him to the convenient Gaol of the County, until he comply with such Order, and shall order the Person so convicted, to pay the Cost of Prosecution, and to be committed until he pay the same. And every Person so convicted, shall be totally disqualified to hold any Office, Civil or Military, or to give his Vote for any Representative to serve in the General Court or Assembly, or for any Military Town or County Officer, until such Person or Persons shall be relieved by the General Court to the Privileges of a good and free Member of this Community.

And whereas it may have happened, that some Towns and unincorporated Places in this Colony, may be destitute of a Committee of Correspondence, Inspection and Safety, by Reason of their not having seasonably received the Resolves of this Court directing thereto, or from some other Cause: Therefore,

Be it further enacted by the Authority aforesaid, That in all such Towns in this Colony and Places as did not at their annual Meeting in March last, agreeable to the Resolves of this Court, choose such Committee, the Committee of Correspondence, Inspection or Safety in every such Town and Place last chosen before the annual Meeting in March last, are hereby directed and empowered to continue acting in such Capacity, and shall perform the Business required in this Act of a Committee of Correspondence, Inspection and Safety, until a new Committee shall be chosen in their respective Towns and Places; and where no such Committees have heretofore been chosen, the Selectmen shall perform the same. And all such Towns and Places are directed and empowered to call Elections, and choose such Committee as soon as may be.

Provided nevertheless, and be it further enacted, That nothing in this Act shall be construed to extend to the disarming, disqualifying, or any way punishing, any of the Denomination of Christians called Quakers, for not signing the aforesaid Declaration, in case upon being required to sign the following Declaration, and having the same tendered to him, shall not refuse or neglect to subscribe it, viz.

I, the Subscriber, do solemnly promise and engage, that we will not aid, assist or abet the Land or Naval Forces of Great Britain, in the War now carrying on against the United Colonies of America, nor supply them with any Kind of Provisions, Naval or Warlike Stores, nor hold any Correspondence with, or communicate any Intelligence to any of the Officers, Soldiers or Mariners of said Army or Navy. And the Committees are required in like Manner to tender the aforesaid Declaration to each of the said Denomination of Christians called Quakers, and require them to sign the same, if any such there are in their respective Towns or Places.

And be it further enacted by the Authority aforesaid, That no Person who certain Person hath voluntarily left his Town or usual Place of Abode, and fled to the British Fleet or Army, while stationed in Boston or elsewhere, or willingly supplied not to the said Fleet or Army with Provisions or Stores of any Kind since the Nineteenth of April One Thousand seven Hundred and Seventy-five, communicated any Intelligence to, or held any criminal Correspondence with any of the Officers, Soldiers or Mariners of said Fleet or Army, or that hath voluntarily entered into, or signed any Association to join or assist said Army or Navy, or in any way voluntarily

And disquali-
fied to hold
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sentative to serve in the General Court of this Colony, or for any Town, County
or Military Officer, and shall have taken from him all his Arms, Ammunition
and Warlike Implements, in the same Manner; and the like Proceedings shall
for any Town be thereon had, as is herein before directed for disarming those who refuse or
County or Mi-
litary Officer.
lunarily aided, assisted or abetted the same shall be permitted to sign either of
the Declarations aforesaid, and shall be totally disqualified to hold or exercise in
this Colony any Office Civil or Military, or to give his Vote for any Represen-
tative to serve in the General Court of this Colony, or for any Town, County
or Military Officer, and shall have taken from him all his Arms, Ammunition
and Warlike Implements, in the same Manner; and the like Proceedings shall
be thereon had, as is herein before directed for disarming those who refuse or
neglect to sign said Declaration. And nothing in this Act shall be construed to
entitle any Persons who may have been heretofore disarmed by any of the Com-
mittees of Correspondence, Inspection or Safety, in any Town or Place in this
Colony, to receive their Arms again, but by the Order of such Committee, or
the General Court.

C H A P. VIII.

An Act for the repealing one Law of this Colony, made
and passed in the fourth Year of the Reign of William
and Mary, King and Queen, intituled, *An Act for regu-
lating Fees, and for regulating the Fees and Allowances of
the several Officers and Persons within this Colony herein
after mentioned.*

Preamble.

WHEREAS the Fees and Allowances stated in the said Act of William
and Mary, are in divers Instances very disproportionate to the Services
whereunto they are annexed:

Fees estab-
lished, viz.
Be it therefore enacted by the Council, and House of Representatives, in Ge-
neral Court assembled, and by the Authority of the same, That the said Act of
William and Mary, intituled, *An Act for regulating Fees*, be and hereby is
repealed; and that every Part and Paragraph thereof, be hereafter held and
taken to be altogether null and void, and of no Effect whatsoever: And that the
Fees and Allowances to the several Officers and Persons within this Colony,
for the Services herein after specified, shall be as followeth, viz.

Fees to Justices of the Peace, and for Services in Matters
cognizable by them singly.Justices of
the Peace.

For every Writ of Attachment, or Original Summons, in the Form that is or
shall be prescribed by the Law of his Colony, *three Pence*.
For the Declaration, *one Shilling*.
For the Summons upon a Capias or Attachment, *three Pence*.
For the Declaration in the Summons, *four Pence*.
Subpna for one or more Witnesses in Civil Causes, *four Pence*.
Entering an Action or Complaint in Civil Causes, *nine Pence*.
For Trial of an Issue, *two Shillings*.
Writ of Execution, *one Shilling*.
Filing Papers, each *one Penny*.
Taxing a Bill of Cost, *three Pence*.
Entering Judgment in Civil or Criminal Causes, *one Shilling*.
Copy of every Evidence, Original Papers or Records, at the Rate of *four
Pence* per Page, accounting twenty-eight Lines to a Page, and eight Words
in a Line.
A Recognizance or Bond of Appeal, including Principal and Sureties, *eight
Pence*.

Taking

Tab 13

ACTS AND LAWS,

Passed by the Great and General Court or Assembly of the Colony of the Massachusetts-Bay in New-England. Being held at Boston in the County of Middlesex, on Wednesday the Nineteenth Day of July, Anno Domini, 1770. And from thence continued by adjournments to Wednesday the Twenty-ninth Day of November following, and then met.

C H A P. I.

An Act for forming and regulating the Militia within the Colony of the Massachusetts-Bay, in New-England, and for repealing all the Laws heretofore made for that Purpose.

WHEREAS it is not only the Interest, but the Duty of all Nations to provide, defend their Lives, Liberties and Properties in that Land which the Supreme Ruler of the Universe has, bestowed on them, against the unlawful Attacks and Depredations of all Enemies, whatever, especially those who are moved by a Spirit of Avarice or Despotism:

And whereas the Honorable American Congress have recommended to the United Colonies to put the Militia into a proper State for the Defence of America:

And whereas the Laws now in Force, respecting the Regulation of the Militia, have been found insufficient for the Purposes aforesaid:

It is therefore enacted by the Council, and House of Representatives in General Court assembled, and by the Authority of the same, That the several Laws, and the several Paragraphs and Clauses of all and every the Laws of this Colony, enforcing, or any Ways relating to the Regulation of the Militia, be, and hereby are repealed, and declared null and void.

And be it further enacted by the Authority aforesaid, That that Part of the Training-Band, of all the able-bodied Male Persons therein, from sixteen Years old to fifty, excepting Members of the American Congress, Members of the Council, and of the House of Representatives for the Time being, the Secretary of the Colony, all Civil Officers that have been, or shall be appointed by the General Court, Persons in either Branch of it, Officers and Students of Harvard-College, Ministers excepted, the Gospel, Elders and Deacons of Churches, Church-Wardens, Grammar School-Masters, Masters of Arts, the Denomination of Christians called Quakers, Select-Men for the Time being, those who have by Commission under any Government or Congress, or by Election in Pursuance of the Vote of any Congress of the Continent, or of this, or any other Colony, held the Post of a Subaltern, or higher Officer, Persons while actually employed as Masters of Vessels of more than Thirty Tons Burthen, other than Fishing Vessels, and Vessels coasting in this Colony, and to and from this Colony to the other New-England Governments, Constables, and Deputy-Sheriffs, Negroes, Indians and Mulatoes, and shall be under the Command of such Officers as shall be chosen, empowered and commissioned over them, as is by this Act provided; and the Select-Men, or the major Part of them of each Town, shall be, and hereby are empowered by

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Writing under their Hands, to excuse from Time to Time such Physicians, Surgeons, Ferrymen and Millers in their respective Towns, from common and ordinary Trainings, as they shall judge it necessary to excuse: And the Council aforesaid shall from Time to Time, as may appear to them necessary, divide the Militia of each County into Regiments, and alter and divide such Regiments The Council to divide the Militia from Time to Time, as they shall judge expedient, after having taken the Opinion, during any Session of the General Court, of such Members of the House as belong to the County where the Division or Alteration is to be made, and as shall be present at the Time of such Consultation.

2. *And be it further enacted by the Authority aforesaid,* That there shall be chosen by Ballot from Time to Time, as may be necessary, by either the Council, or House of Representatives of this Colony, with a Negative always resting in either House of Assembly, Three Major-Generals, to rank and command as be chosen by first, second and third, over the whole Militia thereof; which Major-Generals Ballot of either House, when so chosen and concurred, shall be commissioned to said Office by the major Part of the Council aforesaid, and the Rank of each of said Generals shall be expressed in his Commission, and said first Major-General, and each of the other Major-Generals shall at all Times have Power in the Absence of their Superior (and not having Orders to the contrary) to draw forth the said Militia, or any Part of them, as the said Generals, or the first in Rank of them present shall judge expedient and necessary for the immediate Defence of this, or any of the United Colonies of America: And the Officers and Soldiers of said Militia, shall pay entire Obedience in their Commands accordingly, under the Penalties hereafter provided in this Act. *Provided always,* That the said Generals and all other Officers of said Militia, shall at all Times be under the Command of the major Part of the Council, and shall in drawing forth, or retaining in Service the said Militia, or any Part of them, be subject to such Orders and the command Instructions, as they may receive from the said major Part of the Council; unless when the said Militia, or any Part of them, shall be without the Limits of the Colony, they should receive Orders from the House of Representatives for the Time being, to return; and whenever the said Militia, or any Part of them, shall be without the Limits of this Colony, the said House of Representatives shall have full Power and Authority to give Orders for their Return; to which Orders the said Militia, and all the Officers thereof, are hereby required to yield strict Obedience, any Orders to the contrary notwithstanding.

3. *And be it further enacted by the Authority aforesaid,* That the Council or either House of Representatives, shall from Time to Time as may be necessary, by to be chosen Ballot, choose one good and able Brigadier in each County in this Colony, in each County where there shall be more than one Regiment (and where there is but one Regiment in a County, the Council shall join such Regiment to the Militia of any other County as they shall see fit) and such Persons so chosen and concurred, His Power, shall be commissioned by the major Part of the Council, in which Commission the Rank of each Brigadier shall be expressed: And the said Brigadiers shall have the same Command over their respective Brigades, as the first Major-General has over the Militia of the whole Colony; and when two or more of said Brigades, or any Number of said Militia shall be together embodied upon any Alarm, the first Officer in Rank who shall be present, shall have the chief Command of the whole.

4. *And be it further enacted by the Authority aforesaid,* That there shall be chosen, appointed and commissioned, (as is provided and directed by this Act & two Majors for the Choice and Appointment of General Officers) over such Regiment in to be chosen this Colony, one Colonel, one Lieutenant-Colonel, and two Majors; And the said Field Officers so appointed and commissioned, or the major Part of them, shall forthwith divide and set off the respective Regiments into Companies, as they shall judge expedient, to consist as near as conveniently can be, of sixty-eight Privates, exclusive of those of the Alarm List, and to determine the Rank of each and every Company. *Provided nevertheless,* That no Soldier shall be obliged,

obliged, without his Consent, to join a Company belonging to any Town in which he has not his usual Place of Abode, unless where there shall not be Privates enough to make a Company of thirty Soldiers, including Officers; in which Case, as also where there are any Persons belonging to a Place not incorporated, they shall be joined to such Company as the Field Officers of the Regiments within which they are, shall see fit. And the Inhabitants of every Town now in, or that shall be in the Continental Army, shall be deemed to belong to, and be a Part of the Companies in their respective Towns, and excused from Duty in the Militia, whilst they continue Part of the Army aforesaid; and each Person in the Company, when so formed and set off, shall, together with those of the Alarm Cont'l. Army List, within the Limits of the same, by Ballot, in the Presence of one of their Field Officers, who shall cause them to be duly notified for that Purpose, and longing to the shall preside as Moderator, choose one Captain, and two Lieutenants; which Militia, Choice shall immediately be certified to the Secretary by said Field-Officers; and the major Part of the Council thereupon, unless some material Objection at Each Company against such Choice for any corrupt Practice or Irregularity, shall be made at any to choose or before the Time of receiving said Certificates, shall commissionize such Persons pursuant to their Election. And all the said Officers, when so commissionized, shall be Capt and two Lieut's, who by the Council, shall in the Absence of their Superiors, have the same Power are to become in ordering, directing and marching their Regiments and Companies, as the first commissionized Major-General has over the whole of said Militia: And the Colonel, or commanding Officer of each Regiment, shall as soon as the Captains in his Regiment are commissionized, give them respectively under his Hand in Writing, the Limits of their respective Companies, their alarm Posts, and the Manner of mustering their Companies on all Occasions.

5. And be it further enacted by the Authority aforesaid, That the Field-Officers of each and every Regiment, or the major Part of them, shall recommend to the General Court a good able and skilful Person for Adjutant of their Regiment; and if either House shall by Ballot, elect such Person for that Office, then the major Part of the said Council, shall, when concurred, commissionize him thereto. And in all Cases determinable by Field-Officers of the several Regiments, where there shall be the four Field-Officers of any particular Regiment lot of either present; and they shall be equally divided in their Opinions respecting such House, & commissioniz'd by Matter—the Determination shall be according to the Opinion of the first Colonel.

6. And be it further Enacted, That each Company, including the Alarm List, of the Council shall be called together by their Captain, or commanding Officer, as soon as may be, for the Purpose of choosing one Clerk, four Sergeants, four Corporals, one Drummer, and one Fifer; and when it shall appear to the Commission Officers of any Company, that either of said Non-commissioned Officers shall neglect his Duty, they may remove and dismiss him from his Office, and call upon their Company, including the Alarm List, to choose another in the Room where he is of such Delinquent; and if the said Company, being called together for that Purpose, shall at any Time neglect, or refuse immediately to proceed to the Choice of one, or more Non-commissioned Officer or Officers, so ordered to be chosen—the Commission Officers of such Company, or the major Part of them, shall by Warrant under their Hands in Writing, appoint said Non-commissioned Officer or Officers, which the said Company shall have refused to choose as aforesaid.

7. And be it further enacted by the Authority aforesaid, That each and every Officer, and private Soldier of said Militia, not under the Control of Parents, Masters, or Guardians, and being of sufficient Ability therefor, in the Judgment of the Select Men of the Town wherein he has his usual Place of Abode, shall equip himself, and be constantly provided with a good Fire-Arm, with a Steel or Iron Ramrod, and a Spring to retain the same, a Worm, Priming Wire and Brush, and a Bayonet fitted to his Gun, a Scabbard and Belt therefor, and a Cutting Sword, or a Tomahawk or Hatchet, a Pouch containing a Cartridge Box, that will hold fifteen Rounds of Cartridges at least, a Hundred Buck Shot, a Jack-Knife and

Tow

Tow for Wadding, six Flints, one Pound of Powder, forty Leaden-Balls fitted to his Gun, a Knap-sack and Blanket, a Canteen or Wooden Bottle sufficient to hold one Quart. And all Parents, Masters and Guardians, shall furnish and equip those of the Militia which are under their Care and Command, with the Arms, Poor Persons Equipments, and Accoutrements aforesaid: And where the Selectmen of any to be equip'd. Town shall adjudge any Person belonging to the Militia of their Town unable at the Ex- to equip, and arm himself as aforesaid, such Selectmen shall in Writing under pence of their their Hands certify the same to the Captain or commanding Officer in whose Town. Company such Person may be, and shall at the Expence of such Town provide for, furnish, arm and equip such Person with such Arms and Equipments; which Arms so provided by such Selectmen, shall be the Property of the Town at whose Expence they shall be provided; and if any Non-commissioned Officer or Soldier, shall embezzle or destroy the same, he shall be punished at the Discretion of the Justice, or Court before whom he may be convicted thereof, by paying double the Value of the Arms or Accoutrements so wilfully destroyed or embezzled; and on Default thereof, to be publicly whipped not exceeding twenty Stripes: And the Selectmen of each and every Town shall provide at the Expence of the Colony, and deposit and keep in some safe Place for the Use of the Militia upon an Alarm— one sixteenth Part so many Spades, or Iron Shovels with Handles, and fitted for Service, as there are Rateable Polls in their Town; one half as many narrow Axes as Spades and Iron Shovels, and as many Pick-Axes, as narrow Axes, all fitted for Service, and at the Cost and Charge of their respective Towns; one Drum, and one Fife for each Company therein. And the Freeholders and Inhabitants of each and every Town in this Colony, qualified by Law to vote in Town-Meetings, are hereby impowered at a Meeting regularly warned for that Purpose, to raise Money by Tax on the Polls and Estates of the Inhabitants of their Towns, to defray all Charges arising on said Towns in Consequence of this Act.

Penalty for Commission Officers neg- letting to e- quip them- selves. 8. And be it further enacted by the Authority aforesaid, That each and every Commission Officer of said Militia, who shall not within one Month next after receiving his Commission, provide for, arm and equip himself with such Arms and Accoutrements, as is by this Act directed, shall by Order of a Court Martial appointed, as by this Act is provided, be removed from his Office. And every commissioned Officer, who shall be deposod from his Office in the Militia for Neglect of Duty, or other Misdemeanor, as by this Act is provided, shall receive no Benefit from any Commission, which he shall be thus incapacitated to execute to exempt him from Military Duty.

A Return of all the Equip- ments to be made every six Months. 9. And be it further enacted, That the Clerk of each and every Company of said Militia, shall once every six Months after the Time of his Choice or Appointment, take an exact List of his Company, and of each Man's Equipments respectively, and present the same to the Captain or commanding Officer thereof; a Copy whereof of the Captain or commanding Officer of said Company, shall immediately deliver to the Colonel or commanding Officer of the Regiment he belongs to; and the Colonel shall, without Delay, return the Number therein contained to the Brigadier, and the Brigadier shall as soon as may be, return the same to the first Major-General, and he shall forthwith return the same to the Council.

Each Bri- gadier to re- view his Bri- gade twice a Year. 10. And be it further enacted by the Authority aforesaid, That every Brigadier shall review each Regiment of his Brigade twice a Year, and oftner if the Council shall order it, and on Default thereof, shall be liable to be removed from his Office: And when the Captain or commanding Officer of any Company of such Militia shall choose to call his Company together, or shall be ordered by his superior Officer to do it, to examine their Arms, or instruct them in the Exercises, which from Time to Time shall by the General Court be ordered for them, he shall notify and warn them of the Time and Place of Meeting, in such Manner as his Colonel shall appoint therefor; and each and every Company shall be mustered eight Times a Year at least, including their Regimental-Musters.

11. And

11. And be it further enacted, That if the commanding Officer of any Regiment, shall neglect to call his Regiment together at such Time and Place, and in such Manner as his Brigadier shall order, and be thereof convicted before a Court Martial appointed, as is in this Act provided, he shall be liable to be removed from his Office; and if any Captain or Subaltern, shall prove disobedient on a

Penalty for
Colonels &c.

legting to call
their Regi-
ments toge-
ther.

Training or Mustering Day, or shall not draw out the Company he commands, being ordered by his Superior Officer thereto, he shall be liable to be removed from his Office by a Court Martial appointed, as by this Act is provided: And when any Commission Officer shall be removed from his Office as aforesaid, he shall be held incapable of holding any Military Office in said Militia, for the Space of three Years next after sentence declared against him; and when any Captain or Subaltern shall be removed from his Office as aforesaid, the commanding Officer of the Company wherein such incapacitated Person used last to command, shall call the Company together, including the Alarm List, and direct them in the Presence of one of the Field Officers of the Regiment, who shall preside as Moderator, to choose some other Person in his Room, and the Person so chosen, on his Choice being certified, as is in this Act provided for the Choice of Captains and Subalterns, shall by the Council be commissionated accordingly. And if the said Company at any Time shall neglect or refuse to choose one or more Commission Officers or Officers for the same, after being called together for that Purpose, as is directed by this Act, the Field Officers, or the major Part of them, shall recommend to the Council such Person or Persons within the Limits of said Company, as they shall think most capable of the said Office. And the Council shall commissionate them in the same Manner as if they had been chosen by the Company; and if any Non-commissioned Officer or private Soldier, being duly notified of the Time and Place appointed for the Company to which he belongs, to meet on a Training or Mustering Day, shall unnecessarily neglect to appear with such of the aforesaid Arms, Accoutrements and Equipments, as he shall be possessed of, being ordered by his Officer to bring the same, shall and Soldiers pay a Fine not exceeding the Sum of twenty Shillings, nor less than five Shillings, or if he shall be Disobedient, or Disorderly on a Training, or Mustering Day, he shall Pay a Fine not exceeding the Sum of twenty, nor less than one Shilling; and all Fines and Forfeitures of Money, arising by Breach of this Act for Disobedience or Failure of Appearance on a Training Day, shall be recovered by Complaint before a Justice of the Peace, by the Clerk of the Company to which the Delinquent belongs, an Appeal being allowed to either Party, to the Inferior Court of Common Pleas, as in other Actions: And if on such Complaint, Judgment shall be given in Favor of such Clerk, he shall have his legal Cost allowed him. *Provided nevertheless,* That when any Non-commissioned Officer or Soldier, shall neglect to appear as aforesaid on a Training or Mustering Day, and shall within fifteen Days next after such Training or Mustering, make his Application to the Officers of said Company, or the major Part of them, and pay such Fine as they shall order, not exceeding twenty, nor less than five Shillings, or shall obtain their Excuse, and present a Certificate of the same under their Hands to the Clerk, it shall be a Bar to any further Action or Complaint against him for such Offence.

12. And be it further enacted, by the Authority aforesaid, That the said Militia, as well Officers, as private Soldiers, when drawn out, or ordered to be drawn out on an Alarm for the immediate Defence of this, or any other of the United Colonies of America, shall from Time to Time be under such Laws or Articles of War and Regulations, as shall be provided by the General Court.

13. And be it further enacted, That the Major-Generals and Brigadiers of said Militia, shall be amenable to, and tried before the Council of the Colony, for all Crimes and Misdemeanors in their Office, and for Treachery, Cowardice, Fraud, or Neglect of Duty, and lawless Exercise of Power, shall be liable to be removed from their Offices respectively. And if any Field Officer shall be guilty

The Militia
to be under
such Laws
as shall be
provided by
the General
Court.

All the Ge-
nerals to be
amenable to
before the
Council for
all Crimes &
Misdemeanor
in their Office

Field Officers to be tried for Breach of Duty before a Court Martial of Field Officers.

Captains and Subalterns by a Court Martial of commissioned Officers.

14. And whereas Bribery and Corruption has been the Destruction of many great and oppulent Nations, and therefore every Species thereof should be discountenanced by a virtuous and patriotic People: And whereas on treating the Election of Officers has a manifest Tendency to injure a free People, and does on Training Days, in a great Measure, subvert the Design of calling the Militia together:

15. It is therefore enacted by the Authority aforesaid, That if any Officer, on any Training or other Muster Days, shall give, or provide any Treat of Victuals or Drink, for the Company he commands, directly or indirectly, he shall be liable to be removed from his Office, by a Court Martial, as by this Act is provided for other Offences.

15. And be it further enacted, That no Soldier, or Non commissioned Officer, shall unnecessarily discharge or fire his Gun on a Training or Muster Day, without the express Order or Licence of his Superior Officer, under such Penalty, as is herein provided for Disobedience, or disorderly Behaviour on such Days.

16. Be it further enacted, That no Sentence of any Court Martial shall be put in Execution, without being affirmed by the Officer who shall have appointed the same.

17. And whereas by the first Section of this Act, certain Orders of Men are exempt from common and ordinary Trainings: And whereas the present Situation of this Colony calls loudly for the Aid of all its Inhabitants; and many of those Persons who are by said Section so exempted, and others not included in that Part of the Militia, called the Training Band, are able and willing to fight in Defence of their Country:

18. It is therefore enacted by the Authority aforesaid, That all the Male Persons from sixteen Years of Age to sixty-five, not included in that Part of the Militia called the Training Band, and exempted by the first Section of this Act, from common and ordinary Training, shall constitute an Alarm List in the Colony; excepting Members of the Council, of the House of Representatives, and American Congress, for the Time being, the Secretary of the Colony, Ministers of the Gospel, the Denomination of Christians called Quakers, Selectmen for the Time being, and Negroes, Indians and Molattoes; and if of sufficient Ability, in the Judgment of the Selectmen of the Town, where they have their usual Place of Abode, shall respectively provide for, and equip themselves with such Arms and Accouplements, as by this Act is directed for those of the Training Band, in the Militia aforesaid; and shall, in case of an Alarm, be under the Command of such Officers of the Militia, as by this Act is directed. Provided, that no Person above sixty Years of Age, nor such Miners and Ferrymen, as the Selectmen of their Town shall judge necessary to excuse therefrom, shall be compelled to march out of the Town wherein they have their usual Place of Abode.

19. Provided also, and it is enacted by the Authority aforesaid, That all such Persons belonging to the Alarm List, who are by this Act liable, in case of an Alarm, to be called to march, and serve without the Limits of the Town where they have their usual Abode, shall not be obliged to march, or serve in the Ranks with such as belong to the Training Band List; but, if Necessity shall require,

Who constitute the Alarm List.
Sentence of Courts Martial.

Persons excepted.

The Alarm List to serve in Time of Action in a separate Corps.

require, shall march, and serve in a separate Body and Corps by themselves, Not to be under the immediate Command of some Field Officer or Officers; and shall not subject to the Command of any Officer or Officers, inferior to a Field Officer; any Officers, nor shall the Judges, Justices and Sheriffs, in actual Commission, who shall have inferior to a taken the Oath required by Law to qualify them for the Execution of their respective Offices, be subject or liable to be called out of the Towns, where they shall have their usual Abode, by any Officer inferior to the Colonel of a Regiment to which they belong: And the Clerk of each Company shall, when he takes a List of the Training Band, take an exact List of the Persons belonging to the Alarm List in his Company, and shall present the same to his Captain, with that of the Training Band; and the Captains, and all Officers, shall make the same Return of them, as of the rest of the Militia. And an Alarm may be made by firing three Guns one after another, or by firing a Beacon, the Drums beating an Alarm, all Persons being called upon to arm: Upon which all the trained Soldiers, and others capable to bear Arms, who are then resident in any Town, shall forthwith appear compleat, with their Arms and Ammunition, at the usual Place of Rendezvous, or where the chief Officer shall appoint; there to attend such Command as shall be given for the common Defence, agreeable to this Act.

18. *And be it further enacted*, That the Captain, or commanding Officer of Alarm Lists every Company in this Colony, shall once every six Months, on one of the Days that he shall muster those of his Company belonging to the Training Band, call those of the Alarm List, within the Limits of the same together, within the

Town where they are Inhabitants, and examine their Arms and Accoutrements; and if any such Person, belonging to the Alarm List, shall unneccesarily neglect to appear, after being duly warned, with his Arms and Accoutrements, he shall be liable to pay the same Fine, as is provided against those of the Training Band, in like Cases offending: And all Fines and Forfeitures, arising by Breach of this Act, against any of the said Alarm List, shall be recovered in the same Manner, as is provided for recovering the same against those of the Training Band, in like Case offending: And all those Persons in the Alarm List, shall be as capable of being elected to any Office in the said Militia, as if they were in the Training Band. And no Person belonging to, or being a Part of the established Forces of the United American Colonies, or of this Colony, shall, during the Time of his Engagement in the Services aforesaid, be elected to, or hold any Office in the Militia of this Colony.

19. *And be it further enacted by the Authority aforesaid*, That there shall be appointed by the General Assembly, a Deputy-Commissary for every Brigade; a Certificate of which Appointment, shall be sent them by the Secretary; and they shall be duly sworn to a faithful Discharge of the said Office: Which Deputies shall be accountable to, and obey the Commands in Matters respecting their Office, of the Commissary of this Colony. And when the Militia of any Town in the Colony, or a Part thereof, shall be drawn forth for the immediate Defence of this, or any of the United Colonies aforesaid, each Officer and Soldier shall provide for himself, at least three Days Allowance of Provisions: and the Selectmen of such Town shall immediately cause Carriages to attend them with further necessary Provisions, and Utensils to cook the same, and shall continue sending to the Commissary, or his Deputy, sufficient Supplies for the Part of the Militia, from their respective Towns aforesaid, until Certificates shall be given by the Commissary, or his Deputy, in the County from which said Militia goes, that the same can be otherwise supplied: And the Selectmen are directed to cause their Accounts of the Provision aforesaid, that shall be supplied by them, or such of the Utensils as shall be lost or damaged, together with the Charges of Transportation, to be laid before the General Court for Allowance, and to produce Receipts from the Commissary, or his Deputies, for such a Part thereof as shall be delivered to them respectively.

20. *And*

20. *And be it further enacted*, That there shall be a Stock of Powder and Ammunition in each Town provided, and constantly kept; which shall be one Barrel of good Gunpowder, containing one Hundred Pounds, three Hundred Weight Powder and of Leaden Balls of different Sizes, and BuckShot, and three Hundred Flints for Ammunition to be kept in every fifty Soldiers of the Training Band, and the same Proportion for any greater or lesser Number; and the Selectmen of every Town in this Colony, shall procure and provide such Stock of Ammunition, as soon as may be; and the Selectmen of each Town shall be, and hereby are, empowered to raise Money by Tax, on the Polls and Estates of their Town, for the Purposes aforesaid, by the same Rule as other Town Charges are assessed; and shall by Warrant under their Hands, commit the same to the Constable or Constables of their Town, who are hereby empowered and directed to collect the same, in the same Manner as is provided for the Collector of other Taxes, and shall be held to pay the same to the Town Treasurer, as other Taxes, and shall be liable, in Case of Default, to have the same levied of them by an Execution from the said Treasurer, as in other Cases of a delinquent Constable is provided: And the said Treasurer is hereby empowered to award the same.

21. *And be it further enacted*, That there be Military Watchers appointed, and kept in every Town, at such Time, and in such Places, and in such Numbers, and under such Regulations, as the Commission Officers of such Town shall appoint, or as they may receive Orders from the chief Officer of their Regiment; and that all Persons within the Training Band, or Alarm List, under sixty Years of Age, shall by themselves, or some meet Person in their Stead, to the Acceptance of the Commander of the Watch, attend the same, on Penalty of five Shillings for each Desert, there having been due Warning given. And the Commission Officers, or the major Part of them of any Town, are hereby ordered and directed, to proportion the Burthen of such Watches, equally on those of the Training Band, and Alarm List, excepting such as are more than sixty Years of Age as aforesaid, under the Penalty of being dealt with in the Manner provided by this Act against those who shall be guilty of Fraud, or the lawless Exercise of Power.

22. *And be it further enacted*, That each and every Fine and Forfeiture arising by Breach of this Act, when recovered, shall be paid to the Treasurer of the Town in which the Person offending has his usual Place of Abode, to be by the Selectmen of such Town appropriated to the Use of purchasing Guns and Accoutrements, for those who are unable to purchase the same for themselves and for purchasing Drums and Pipes, and to be drawn out by the Selectmen of each Town from Time to Time, as there shall be Occasion.

23. *And be it further enacted by the Authority aforesaid*, That each Brigadier of this Colony, shall keep constantly provided, at the Expence of the same, two good Field Pieces, that shall carry a Shot of not more than six, nor less than two Pounds Weight, mounted on good and substantial travelling Carriages; together with Harnesses, Rammers, Ladles, Sponges, Powder-Horns, and other necessary Accoutrements for the same; and shall also keep constantly provided at the Expence of the Colony, for each Field Piece aforesaid, forty Rounds of Iron Shot, forty Cases of Iron or Leaden Ball, and eighty Rounds of Powder, with Cartridges for the same; and shall likewise cause a Company of Matrofes to be enlisted in his Brigade, for each Field Piece: Which Companies shall consist of thirty-six Men each, including Officers, and be chosen from two separate Regiments, and one Town in each Régiment, as the Brigadier shall direct; and shall respectively choose Captains, and other proper Officers, and be subject to the Field Officers of their respective Regiments, and to the same Laws and Regulations, as are provided in this Act, for the other Companies of the Brigade, Train-Band; any Thing in this Act notwithstanding.

Tab 14

In the Year of our L O R D, 1792.

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Gun-Powder.

*And be it further enacted by the authority aforesaid, That the said proprietors, shall from time to time, appoint some suitable person, Collector of toll, who shall constantly attend at some convenient place for the purpose of receiving said toll, which may be demanded at the time of passing through said canal; and if the transporter of any article through said canal, on which a toll is allowed by this act, shall neglect or refuse to pay such toll, the same may be recovered by action of debt, or the case, for the use of said proprietors, by any one of them, or any person by them appointed Collector of said toll, before any justice of the Peace for said county, if the amount of the toll due, shall not exceed the sum of *four pounds*; and if the same shall exceed that sum, then before the Court of Common Pleas for the same county, saving a right of appeal as in other cases.*

And be it further enacted by the authority aforesaid, That if the said proprietors, shall neglect for the space of three years, from the time of passing this act, to compleat such dam and canal in manner aforesaid, then this act shall be void and of no effect.

[This Act passed June 25, 1792.]

C H A P. X.

An Act in addition to the several Acts now in force, which respect the carting and transporting Gun-Powder, through the Streets of the Town of Bexley, and the storage thereof in the same Town.

Presubt.

WHENAS the provisions in the said acts made, have been found insufficient to prevent the carting and transporting gun-powder, through the streets of the said town, in a dangerous and alarming mode:

Method of carting gun powder

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That from and after the first day of August next, no gun-powder shall be carried or transported to or from the magazine, within the said town, or through any of the streets thereof, in any quantity, exceeding twenty-five pounds, being the quantity allowed by law, to be kept in shops for sale, unless the same be carried and transported in a waggon or carriage, closely covered with leather or canvas, and without iron on any part thereof, to be first approbated by the Firewards of said town, and marked in capitals, with the words *approved powder carriage*, under the penalty of forfeiting all such gun-powder, one moiety thereof, to the use of the poor of the said town, and the other moiety to the use of him or them who shall inform and sue for the same.*

Place of landing

And be it further enacted by the authority aforesaid, That all gunpowder which shall be imported into the said town of Bexley, from and after the said first day of August, shall be landed at such place or places only, and be carried to the magazine aforesaid, by such passage by land or water only, as shall be directed and pointed out by the Firewards of the said town, under the penalty of forfeiting to the uses aforesaid, all such powder as shall be landed or conveyed otherwise

In the Year of our LORD, 1792.

Processes in Law.—*Benjamin Freeman.*

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otherwise than is in this act provided: The penalties and forfeitures
aforesaid, to be sued for and recovered by bill, plaint or information
in any Court proper to try the same; and the Firewards aforesaid,
are hereby directed, from time to time, to publish their regulations
and orders respecting the same in three of the public newspapers in
the said town, six weeks successively; *provided nevertheless*, That
nothing in this act shall be construed to extend, or operate as a pro-
hibition to the transporting of powder, from and out of the maga-
zine, in the town of *Boston*, into any part of this Commonwealth, or
from the powder-mills, in the country to the magazine aforesaid, in
such carts or carriages, as hath been customary, and heretofore used.

Method of recov-
ery.

—Firewards to
publish regula-
tions.

Provise.

[This Act passed June 26, 1792.]

C H A P. XI.

An Act to continue an Act, intitled "An Act for render-
ing Processes in Law less Expensive."

BE it enacted by the Senate and House of Representatives in General Assembly, and by the authority of the same, That the act intitled "An Act for rendering processes in law less expensive," be, and hereby is continued, and shall be in force, until the last day of *June*, which will be in the year of our Lord, one thousand seven hundred and ninety-three.

[This Act passed June 26, 1792.]

C H A P. XII.

An Act to set off *Benjamin Freeman*, and Others, from the
Town of *Charlton*, in the County of *Worcester*, and to
annex them to the Town of *Sturbridge*.

BE it enacted by the Senate and House of Representatives in General Assembly, and by the authority of the same, That *Benjamin Freeman*, *David Marcy* and *Elijah Sobree*, with all their lands lying on the south side of the road leading from *Sturbridge* meeting-house, to *Sarah Cliney's*, in *Dudley*, including so much of the road aforesaid, as now lies in *Charlton*, with the dwelling houses and other buildings thereon, be, and they hereby are set off from the town of *Charlton*, and annexed to the town of *Sturbridge*, and shall forever hereafter be considered as making part of the same.

Persons set off.

Provided nevertheless, That the several persons above named, and their estates, shall be still holden to pay all legal taxes assessed upon them, before the passing of this act, and also their proportionable part in building and repairing the bridge over *Squinabogue-River*, by *Worcester's* mills, in like manner as though this act had not been made.

Provise.

[This Act passed June 26, 1792.]

C H A P.

Tab 15

THE
GENERAL STATUTES

OF THE
COMMONWEALTH OF MASSACHUSETTS:

ENACTED FEBRUARY 1, 1873, TO TAKE EFFECT JUNE 1, 1873.

WITH

THE CONSTITUTIONS OF THE STATE AND THE UNITED STATES,
A GLOSSARY, LIST OF ACTS PREVIOUSLY REPEALED,
AND INDEX.

SECOND EDITION, 1873,
WITH REFERENCES TO SUBSEQUENT LEGISLATION AND JUDICIAL DECISIONS.

EDITED BY

WILLIAM A. RICHARDSON

AND

GEORGE P. SANGER.



BOSTON:
PUBLISHED BY THE COMMONWEALTH,
WRIGHT AND DODGE, STATE PRINTERS.
1873.

R. S. 1855, § 5
Section 1, § 134
Ch. 164, § 66
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to offer violence to persons or property, or with intent by force or violence to resist or oppose the execution of the laws of this state, arrives at the place of such unlawful, riotous, or tumultuous assembly, they shall obey such orders for suppressing the riot or tumult, and for dispersing and arresting all persons who are committing any of said offences, as they have received from the governor, or any judge of a court of record, or the sheriff of the county, and also such orders as they there receive from any two of the magistrates or officers before mentioned.

SECT. 6. If, by reason of the efforts made by any two or more of said magistrates or officers, or by their direction, to disperse such assembly, or to seize and secure the persons composing the same, who have refused to disperse, though the number remaining may be less than twelve, any such person, or other person then present, is killed or wounded, the magistrates and officers, and all persons acting by their order, or under their directions, and all persons acting under the two preceding sections, shall be held guiltless and fully justified in law; and if any of said magistrates or officers, or any person acting under or by the direction of any of the officers before mentioned, is killed or wounded, all persons so assembled, and all other persons who, when commanded, or required, refused to aid and assist said magistrates or officers, shall be held answerable therefor.

SECT. 7. If any of the persons so unlawfully assembled demolishes, pulls down, or destroys, or begins to demolish, pull down, or destroy, any dwelling-house or other building, or ship or vessel, he shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding one thousand dollars, and imprisonment in the jail not exceeding two years, and shall also be answerable to any person injured, to the full amount of the damage, in an action of tort.

SECT. 8. When property of the value of fifty dollars or more is destroyed, or property is injured to that amount, by any persons to the number of twelve or more, riotously, riotously, or tumultuously assembled, the city or town within which the property was situated shall be liable to indemnify the owner thereof, to the amount of three-fourths of the value of the property destroyed, or of the amount of such injury thereto, to be recovered in an action of tort: *provided*, that the owner of such property uses all reasonable diligence to prevent its destruction or injury, and to procure the conviction of the offenders.

SECT. 9. A city or town which pays any sum under the provisions of the preceding section may recover the same against any or all of the persons who destroyed or injured such property.

SECT. 10. Whoever when arrested upon a warrant of a magistrate issued against him for an alleged offence against the laws of this state, and whoever when arrested by a sheriff, deputy-sheriff, constable, police officer, or watchman, while committing a criminal offence against the laws of this state, or a breach or disturbance of the public peace, is armed with, or has on his person, sling shot, metallic knuckles, billyes, or other dangerous weapon, shall be punished by fine not exceeding fifty dollars, or by imprisonment in the jail not exceeding one year.

SECT. 11. Whoever manufactures, or causes to be manufactured, or sells, or exposes for sale, any instrument or weapon of the kind usually known as sling shot, or metallic knuckles, shall be punished by fine not less than fifty dollars, or by imprisonment in the jail not exceeding six months.

SECT. 12. Whoever is concerned in causing or making a bonfire within ten rods of any house or building shall be punished by fine not exceeding twenty dollars, or imprisonment not exceeding one month.

SECT. 13. Whoever without reasonable cause, by outcry, or the ringing of bells, or otherwise, makes or circulates, or causes to be made or circulated, a false alarm of fire, shall be punished by fine not exceeding fifty dollars.

Officers, As
before 2nd, 6
less, the aga-
death is less
Bills, See
et 1691
R. S. 129, § 6
1855, 5, § 1
7 A. 1853, 563

Riotously de-
stroying 1, 2
damaging, 2
R. S. 129, § 7
1855, 562

Towns, As
per 1st
earlier, 1, 2
of property de-
stroyed or in-
jured
1855, 5, § 2
1852, 562

may recover
from offenders
1855, 5, § 4

Carrying sling
shot, As
1855, 14, § 3
1852, 29, § 1
1855, 563
7 A. 1853, 563
Ed. Mass. 563

Manufacturing,
As
1855, 5, § 2

Making bonfire
within ten rods
of a building
1855, 177, § 1
Fire alarm, As
1855, 177, § 2

for keeping the peace or being of good behavior for a term not exceeding three months, and in case of refusal may be committed as before directed.

Sec. 15. Whoever goes armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, may on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace for a term not exceeding six months, with the right of appeal as before provided.

Sec. 16. When, upon a suit brought on such recognizance, the penalty thereof is adjudged forfeited, the court may, on the petition of any defendant, remit such portion of it as the circumstances of the case render just and reasonable.

Sec. 17. A surety in a recognizance to keep the peace, or for good behavior, or both, shall have the same authority and right to take and surrender his principal, as if he had been bail for him in a civil cause; and upon such surrender shall be discharged and exempt from all liability for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance. The person so surrendered may recognize anew with sufficient sureties before any justice of the peace for the residue of the term, and shall thereupon be discharged.

Persons who go armed may be required to find sureties for the peace, &c.
R. S. Ch. 34, § 19.

Court may remit part of penalty
R. S. 131, § 17.
Mass. 36.

Surety may surrender his principal, who may recognize anew.
R. S. 131, § 18.

CHAPTER 170.

OF SEARCH WARRANTS, REWARDS, ARREST, EXAMINATION, COMMITMENT, AND BAIL.

SECTION	SECTION
SEARCH WARRANTS	
1. Search warrants for property stolen, &c.	2. Manner of conducting examination;
2. Search warrants in other cases.	21. on part of prisoner.
3. To whom directed; when and how executed.	22. Witnesses may be kept separate, &c.
4. Search in the night time, when allowed.	23. Testimony reduced to writing, &c.
5. Property seized may be kept as evidence, and then restored to owner or destroyed.	24. Prisoner, when to be discharged;
new cases not apprehending offenders.	25. when to be held for commitment.
6. Governor and other officials, &c.	26. Witnesses to recognize;
7. Magistrate and informants, &c., may offer rewards, &c.	27. may be required to give sureties.
8. Payment of reward.	28. Recognizances by married women and minors.
AND OF EXAMINATION, COMMITMENT, AND BAIL	29. Witnesses refusing, shall be committed.
9. Warrants to arrest, by whom issued.	30. Depositions of witnesses may be taken in certain cases. Proceedings:
10. In what cases.	31. to be returned to court, &c.
11. in what cases committed out of county, &c.	32. Magistrate may have associates. Fees in such cases.
12. Prisoners, when to be brought before magistrate on arrest, &c.	33. Commitments, when to be superseded, and recognizances discharged.
13. Magistrate taking his return recognizance to court, &c.	34. Orders therefor, how to be filed, and effect of copy.
14. Officers, how to proceed, if prisoner is not home.	35. Prisoners, how bailed, if arrested after court adjourns;
15. to take prisoner to county where warrant issued.	36. how bailed when committed;
16. to be taken before magistrate, &c.	37. to be bailed without notice, &c.
17. Magistrate may administer examination, &c.	38. when bailed on bail's day.
18. To case of default, magistrate to certify recognizance to court.	39. Condition of recognizances.
19. Proceedings when party fails to recognize.	40. Recognizances and examinations to be returned to court.
70	41. 42. 43. Bail may exonerate themselves, &c.
	44. may surrender principal, &c.
	45. New bail not to have benefit, &c.
	46. Defaults on bail to discharge recognizances.
	47. Surety may pay amount of recognizances, &c.

Tab 16

other purpose. Such persons shall hold office during the term of their employment by the state highway department but the authority herein vested shall cease upon the termination of such employment. The persons so appointed shall by reason of such appointment be members of the department of public safety during the terms of such appointment but shall serve without pay as members thereof.

Approved June 2, 1927.

[No. 372.]

AN ACT to regulate and license the selling, purchasing, possessing and carrying of certain firearms; to prohibit the buying, selling or carrying of certain firearms without a license therefor; to prohibit the possession of certain weapons and attachments; to prohibit the pawning of certain firearms; to prohibit the sale, offering for sale, or possession for the purpose of sale of written or printed matter containing any offer to sell or deliver certain firearms or devices within this state; to provide penalties for the violations of this act, and to repeal act number two hundred seventy-four of the public acts of nineteen hundred eleven, being sections fifteen thousand two hundred thirty-six, fifteen thousand two hundred thirty-seven, fifteen thousand two hundred thirty-eight, fifteen thousand two hundred thirty-nine, fifteen thousand two hundred forty, fifteen thousand two hundred forty-one, fifteen thousand two hundred forty-two, fifteen thousand two hundred forty-three, fifteen thousand two hundred forty-four, fifteen thousand two hundred forty-five and fifteen thousand two hundred forty-six of the compiled laws of nineteen hundred fifteen; act number three hundred thirteen of the public acts of nineteen hundred twenty-five; and section sixteen of chapter one hundred sixty-two of the revised statutes of eighteen hundred forty-six, being section fifteen thousand six hundred forty-one of the compiled laws of nineteen hundred fifteen.

The People of the State of Michigan enact:

SECTION 1. The word "pistol" as used in this act shall mean any firearm, loaded or unloaded, thirty inches or less in length. The word "purchaser" shall mean any person who receives a pistol from another by purchase, gift or loan. The word "seller" shall mean any person who sells, furnishes, loans or gives a pistol to another.

SEC. 2. No person shall purchase a pistol as defined in this act without first having obtained a license before purchase.

prescribed herein. The commissioner or chief of police, or his duly authorized deputy, in incorporated cities or in incorporated villages having an organized department of police, and the sheriff, or his authorized deputy, in parts of the respective counties not included within incorporated cities or villages, are hereby authorized to issue licenses to purchase pistols to applicants residing within the respective territories herein mentioned. No such license shall be granted to any person except he be nineteen years of age or over, and has resided in this state six months or more, and in no event shall such a license be issued to a person who has been convicted of a felony or adjudged insane in this state or elsewhere. Applications for such licenses shall be signed by the applicant under oath upon forms provided by the commissioner of public safety. Licenses to purchase pistols shall be executed in duplicate upon forms provided by the commissioner of public safety and shall be signed by the licensing authority. One copy of such license shall be delivered to the applicant and the duplicate of such license shall be retained by such licensing authority as a permanent official record for a period of six years. Such license shall be void unless used within ten days after the date of its issue. Any person who shall sell to another any pistol as defined in this act without complying with the requirements of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or imprisonment in the county jail not more than ninety days, or both such fine and imprisonment in the discretion of the court. Such license shall be signed in ink by the holder thereof in the presence of the person selling, loaning or giving a pistol to such licensee and shall thereupon be taken up by such person, signed by him in ink and shall be delivered or sent by registered mail within forty-eight hours to the commissioner of public safety. The seller shall certify upon said license in the space provided therefor the name of the person to whom such pistol was delivered, the make, style, calibre and number of such pistol, and shall further certify that such purchaser signed his name on said license in the presence of the seller. The provisions of this section shall not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, nor to the sale, barter or exchange of pistols kept solely as relics, souvenirs or curios.

Unlawful to manufacture,
etc., certain
firearms, etc.

SEC. 3. It shall be unlawful within this state to manufacture, sell, offer for sale, or possess any machine gun or firearm which can be fired more than sixteen times without reloading, or any muffler, silencer or device for deadening or muffling the sound of a discharged firearm, or any bomb or bombshell, or any blackjack, slung shot, billy, metallic knuckles, sandclub, sandbag or bludgeon. Any person convicted of a violation of this section shall be guilty of a felony and shall be punished by a fine not exceeding one thousand

Penalty for
violation.

dollars or imprisonment in the state prison not more than five years, or by both such fine and imprisonment in the discretion of the court. The provisions of this section shall not apply, however, to any person, firm or corporation manufacturing firearms, explosives or munitions of war by virtue of any contracts with any department of the government of the United States, or with any foreign government, state, municipality or any subdivision thereof.

Sec. 4. Any person who, with intent to use the same unlawfully against the person of another, goes armed with a pistol or other firearm or dagger, dirk, razor, stiletto, or knife having a blade over three inches in length, or any other dangerous or deadly weapon or instrument, shall be guilty of a felony and on conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment in the state prison for not more than five years, or by both such fine and imprisonment in the discretion of the court.

Sec. 5. No person shall carry a dagger, dirk, stiletto or other dangerous weapon except hunting knives adapted and carried as such, concealed on or about his person, or whether concealed or otherwise in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him. No person shall carry a pistol concealed on or about his person, or, whether concealed or otherwise, in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him, without a license therefor as herein provided. Any person violating the provisions of this section shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment in the state prison for not more than five years, or by both such fine and imprisonment in the discretion of the court.

Sec. 6. The prosecuting attorney, the commissioner or chief of police and the commissioner of public safety or their respective authorized deputies in incorporated cities or in incorporated villages having an organized department of police, and the prosecuting attorney, the commissioner of public safety or their authorized deputies, and the sheriff, under-sheriff or chief deputy sheriff in parts of the respective counties not included within incorporated cities or villages shall constitute boards exclusively authorized to issue licenses to carry pistols concealed on the person to applicants residing within the respective territories herein mentioned. The county clerk of each county shall be clerk of such licensing boards, which boards shall be known in law as "The Concealed Weapon Licensing Board." No such license to carry a pistol concealed on the person shall be granted to any person except he be nineteen years of age or over and has resided in this state six months or over, and in no event shall such license be issued unless it appears that the applicant has good reason to fear injury to his person or property, or has

Felony,
what
deemed.

Penalty.

Unlawful to
carry, etc.,
dagger, etc.

Concealed
weapon
licensing
board.

To whom
license
granted.

Chairman
of board.

other proper reasons, and that he is a suitable person to be so licensed, and in no event to a person who has been convicted of a felony or adjudged insane in this state or elsewhere. The prosecuting attorney shall be the chairman of the said board, which shall convene at least once in each calendar month and at such other times as they shall be called to convene by the chairman. Such licenses shall be issued only upon written application signed by the applicant and on his oath and upon forms provided by the commissioner of public safety. Such licenses shall issue only with the approval of a majority of said board and shall be executed in triplicate upon forms provided by the commissioner of public safety and shall be signed in the name of the concealed weapon licensing board by the county clerk and the seal of the circuit court affixed thereto. One copy of such license shall be delivered to the applicant, the duplicate of said license shall be retained by the county clerk as a permanent official record for a period of six years, and the triplicate of such license shall be forwarded to the commissioner of public safety who shall file and index licenses so received by him and keep the same as a permanent official record for a period of six years. Each license shall be issued for a definite period of not more than one year, to be stated in the license, and no renewal of such license shall be granted except upon the filing of a new application. Every license issued hereunder shall bear the imprint of the right thumb of the licensee, or, if that be not possible, of the left thumb or some other finger of such licensee. Such licensee shall carry such license upon his person at all times when he may be carrying a pistol concealed upon his person and shall display such license upon the request of any peace officer.

Duration
of license.

Each license shall be issued for a definite period of not more than one year, to be stated in the license, and no renewal of such license shall be granted except upon the filing of a new application. Every license issued hereunder shall bear the imprint of the right thumb of the licensee, or, if that be not possible, of the left thumb or some other finger of such licensee. Such licensee shall carry such license upon his person at all times when he may be carrying a pistol concealed upon his person and shall display such license upon the request of any peace officer.

When license
to expire.

SEC. 7. All licenses heretofore issued in this state permitting a person to carry a pistol concealed upon his person shall expire at midnight, December thirty-one, nineteen hundred twenty-seven.

When license
revoked.

SEC. 8. The licensing board herein created by section six may revoke any license issued by it upon receiving a certificate of any magistrate showing that such licensee has been convicted of violating any of the provisions of this act, or has been convicted of a felony. Such license may also be revoked whenever in the judgment of said board the reason for granting such license shall have ceased to exist, or whenever said board shall for any reasonable cause determine said licensee to be an unfit person to carry a pistol concealed upon his person. No such license shall be revoked except upon written complaint and then only after a hearing by said board, of which at least seven days' notice shall be given to the licensee either by personal service or by registered mail to his last known address. The clerk of said licensing board is hereby authorized to administer an oath to any person testifying before such board at any such hearing.

SEC. 9. On or before the first day of November, nineteen hundred twenty-seven, any person within this state who owns or has in his possession a pistol as defined in this act, shall, if he reside in an incorporated city or an incorporated village having an organized police department, present such weapon for safety inspection to the commissioner or chief of police of such city or village; if such person reside in a part of the county not included within the corporate limits of such city or village he shall so present such pistol for safety inspection to the sheriff of such county. Any person owning or coming into possession of a pistol after the first day of November, nineteen hundred twenty-seven, shall forthwith present such pistol for safety inspection in the manner provided in this section. A certificate of inspection shall thereupon be issued in triplicate on a form provided by the commissioner of public safety, containing the name, age, address, description and signature of the person presenting such pistol for inspection, together with a full description thereof; the original of such certificate shall be delivered to the registrant; the duplicate thereof shall be mailed to the commissioner of public safety and filed and indexed by him and kept as a permanent official record for a period of six years, and the triplicate of such certificate shall be retained and filed in the office of said sheriff, or commissioner or chief of police, as the case may be. The provisions of this section shall not apply to wholesale or retail dealers in firearms or to collections of pistols kept solely for the purpose of display, as relics, souvenirs, curios or antiques, nor to weapons heretofore registered under the provisions of section eleven of act number three hundred thirteen of the public acts of nineteen hundred twenty-five. Any person who fails to comply with the provision of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment in the discretion of the court.

SEC. 10. No pawnbroker shall accept a pistol in pawn. Any person violating this section of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or imprisonment in the county jail for not more than ninety days or by both such fine and imprisonment in the discretion of the court.

SEC. 11. No person shall wilfully alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identity of any pistol. Possession of any such firearm upon which the number shall have been altered, removed or obliterated, shall be presumptive evidence that such possessor has altered, removed or obliterated the same. Any person convicted under this section shall be punished by a fine not to exceed five hundred dollars or by imprisonment

Safety inspection of weapons.

Certificate issued.

Pistol not accepted in pawn.

Alteration of pistol unlawful.

in the state prison not to exceed two years or by both such fine and imprisonment in the discretion of the court.

Exceptions
to act.

SEC. 12. The provisions of section two, three, five and nine shall not apply to any peace officer of the state or any subdivision thereof who is regularly employed and paid by the state or such subdivision, or to any member of the army, navy or marine corps of the United States, or of organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard or other duly authorized military organizations when on duty or drill, nor to the members thereof in going to or returning from their customary places of assembly or practice, nor to a person licensed to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise, or to any person while carrying a pistol unloaded in a wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business, or in moving goods from one place of abode or business to another.

When un-
lawfully
possessed.

SEC. 13. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this act is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this act.

Forfeited to
state.

SEC. 14. All pistols, weapons or devices carried or possessed contrary to this act are hereby declared forfeited to the state.

Certain
books, etc.,
unlawful to
sell, etc.

SEC. 15. It shall be unlawful to sell or deliver within this state, or to offer or expose for sale, or to have in possession for the purpose of sale, any book, pamphlet, circular, magazine, newspaper or other form of written or printed matter offering to sell or deliver, or containing an offer to sell or deliver to any person within this state from any place without this state any pistol or any weapon or device mentioned in section three hereof. The provisions of this section shall not apply to sales of or offers to sell pistols at wholesale to persons regularly engaged in the business of selling such pistols at wholesale or retail, nor to sales or offers to sell such pistols made or authorized by the United States government or any department or agency thereof.

Penalty for
violation.

SEC. 16. Any person violating the provisions of section fifteen of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail not to exceed ninety days, or by both such fine and imprisonment in the discretion of the court.

SEC. 17. Act number two hundred seventy-four of the ^{Acts} ~~repealed~~ public acts of nineteen hundred eleven, being sections fifteen thousand two hundred thirty-six, fifteen thousand two hundred thirty-seven, fifteen thousand two hundred thirty-eight, fifteen thousand two hundred thirty-nine, fifteen thousand two hundred forty, fifteen thousand two hundred forty-one, fifteen thousand two hundred forty-two, fifteen thousand two hundred forty-three, fifteen thousand two hundred forty-four, fifteen thousand two hundred forty-five and fifteen thousand two hundred forty-six of the compiled laws of nineteen hundred fifteen; act number three hundred thirteen of the public acts of nineteen hundred twenty-five; and section sixteen of chapter one hundred sixty-two of the revised statutes of eighteen hundred forty-six, being section fifteen thousand six hundred forty-one of the compiled laws of nineteen hundred fifteen, are hereby repealed: *Provided, however,* That any ^{Proviso.} proceedings pending under any of said sections herein repealed shall not be affected hereby but shall be concluded in accordance with the law of such repealed section or sections.

SEC. 18. This act is declared to be severable, and should any section hereof be hereafter declared unconstitutional or otherwise invalid, the remainder of the act shall not be affected thereby. ^{Saving clause.}

Approved June 2, 1927.

[No. 373.]

AN ACT to amend section twenty-five of chapter thirty of act number three hundred fourteen of the public acts of nineteen hundred fifteen, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms of civil actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," being section thirteen thousand two hundred fifty-three of the compiled laws of nineteen hundred fifteen, as amended by act number two hundred forty-three of the public acts of nineteen hundred seventeen, and to add a new section thereto to stand as section thirty-one.

The People of the State of Michigan enact:

SECTION 1. Section twenty-five of chapter thirty of act ^{Section} ~~amended~~ number three hundred fourteen of the public acts of nineteen

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dent of the University, and must be commissioned by the Governor; *provided*, any commission may be revoked at any time by the Governor upon the recommendation of the Chief Military Instructor and of the President of the University.

Rank of appointees.

SEC. 2. Upon graduating or retiring from the University, such officers may resign their commissions or hold the same as retired officers of the University Cadets, liable to be called into service by the Governor in case of war, invasion, insurrection or rebellion.

CHAP. CXIII.—*An Act to grant the right of way to T. E. Gibbon and his associates for the construction of a railroad from the Vegas valley, in Lincoln county, in a northerly direction to the intersection of the forty-second parallel of latitude north.*

[Approved March 17, 1903.]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

Right of way for railroad in Lincoln county.

SECTION 1. The right of way, two hundred feet in width, on which to locate, construct, maintain and operate, either by steam or electric power, a narrow or broad-gauge railroad with iron or steel rails, by such route as they may deem most feasible and advantageous, from a point in the Vegas valley, Lincoln county, Nevada, thence in a westerly and northerly direction, to a point of intersection with the forty-second parallel of latitude north, is hereby granted to T. E. Gibbon, and his associates and assigns, for the term of fifty years; *provided*, that the construction of said railroad shall be commenced within one year from the date of the passage of this Act, and shall be completed within five years thereafter.

Rights, etc., under certain Acts.

SEC. 2. The said T. E. Gibbon, his associates and assigns, shall have all the rights, privileges and franchises conferred upon railroad companies incorporated in this State by the provisions of "An Act to provide for the incorporation of railroad companies and the management of the affairs thereof, and other matters relating thereto," approved March 22, 1865, and the Acts amendatory thereof or supplemental thereto, so far as the same are consistent with the provisions of this Act.

CHAP. CXIV.—*An Act to prohibit the carrying of concealed weapons, and to provide for the punishment thereof.*

[Approved March 17, 1903.]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

Unlawful to carry arms without permit.

SECTION 1. It shall be unlawful for any person in this State to wear, carry or have concealed upon his person, in any town any dirk knife, pistol, sword in case, slung shot, or

other dangerous weapon, without first obtaining permission from the Board of County Commissioners, attested by its Clerk, of the county in which such concealed weapon shall be carried.

SEC. 2. The Board of County Commissioners of any county in this State may, upon an application made in writing, showing the reason of the person, or the purpose for which any concealed weapon is to be carried, grant permission under its seal, and attested by its Clerk, to the person making such application, authorizing such person to carry the concealed weapon described in such permission. County Commissioners may grant permit.

SEC. 3. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than twenty dollars, nor more than five hundred dollars, and by imprisonment in the county jail for not less than thirty days, nor more than six months. Misdemeanor Punishment.

SEC. 4. This Act shall not apply to peace officers in the discharge of their duties, nor to persons acting or engaged in the business of common carriers in this State, or to persons traveling through the State.

SEC. 5. This Act shall be in force and effect immediately upon and after its passage. Date of effect of Act.

CHAP. CXV.—*An Act to amend Section 55 of an Act entitled "An Act to regulate the settlement of the estates of deceased persons," approved March 23, 1897.*

[Approved March 17, 1903.]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 55 of said Act is hereby amended so as to read as follows:

Section 55. Every person to whom letters testamentary (unless the will otherwise provides) or of administration shall have been directed to issue shall, before receiving the letters, execute a bond to the State of Nevada, with two or more sureties to be approved by the District Judge. In form the bond shall be joint and several, and the penalty shall not be less than the value of the personal property, including rents and profits belonging to the estate, which value shall be ascertained by the Court by the examination on oath of the party applying, and of any other persons the Judge may think proper to examine. The District Judge shall require an additional bond whenever the sale of any real estate belonging to an estate is ordered by him to be sold. The bond shall be conditioned that the executor or administrator will faithfully execute the duties of the trust according to law, and shall be recorded by the Clerk. Letters testamentary granted upon giving bond. When additional bond is required.

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the establishment of a water or flushing closet, connected with such sewer, so that said section shall read SECT. 11. The health officers may in writing, order the discontinuance of any such nuisance; and may order that a privy located within one hundred feet of a public sewer shall be connected therewith. In cities or towns having a water and sewerage system, the health officers may in writing order the discontinuance of any privy or vault located on premises within one hundred feet of a public sewer, and the establishment of a water or flushing closet, connected with such sewer. If any person shall continue the nuisance after such order from the health officers, or shall neglect to comply with an order made under the provisions of this section, he shall be fined not exceeding ten dollars for each day of such continuance or neglect:

[Approved April 6, 1909.]

CHAPTER 114.

AN ACT TO PROHIBIT CARRYING CONCEALED WEAPONS.

SECTION	SECTION
1. Carrying loaded pistol, etc., pen- alty.	3 License to carry pistol.
2. Certain persons excepted	4. Takes effect on passage.

Be it enacted by the Senate and House of Representatives in General Court convened:

SECTION 1. Whoever, except as provided by the laws of this state, carries on his person a loaded pistol or revolver, or any stiletto, dagger, dirk-knife, slung-shot or metallic knuckles, shall upon conviction be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding one year or by both such fine and imprisonment; and any such weapon or article so carried by him shall be confiscated to the use of the state.

Carrying
loaded pistol,
etc., penalty.

SECT. 2. The provisions of the preceding section shall not apply to officers of the law, to members of military forces, to persons holding hunters' licenses, when lawfully engaged in hunting, to employees of express companies while on duty, to watchmen while on duty, or to persons securing a license as provided in the next section.

Certain per-
sons excepted.

SECT. 3. The selectmen of towns or the mayor or the chief of police of cities may, upon the application of any person issue a license to such person to carry a loaded pistol or revolver in this

License to
carry pistol.

state, if it appears that the applicant is a suitable person to be so licensed.

Takes effect on passage.

SECT. 4. This act shall take effect upon its passage.

[Approved April 6, 1909.]

CHAPTER 115.

AN ACT IN AMENDMENT OF CHAPTER 85 OF THE LAWS OF 1907, ENTITLED "AN ACT TO PROVIDE A PENSION FOR FIREMEN, POLICE OFFICERS AND CONSTABLES."

SECTION

1 Adoption of pension act by popular vote

SECTION

2 Takes effect on passage

Be it enacted by the Senate and House of Representatives in General Court convened:

Adoption of act by popular vote.

SECTION 1. Chapter 85 of the Laws of 1907, entitled "An act to provide a pension for firemen, police officers and constables" is amended by striking out section 3 of said act and by substituting in lieu thereof the following: SECT. 3. The provisions of this act may be adopted by any town by a major vote of the legal voters thereof at any regular election duly warned and holden therein in the warrant for which due notice is given of the intention to act upon the matter. At such election the following question shall be submitted to the voters: Are you in favor of adopting the provisions of chapter 85 of the Laws of 1907, entitled "An act to provide a pension for firemen, police officers and constables" and amendments thereof? The provisions of this act may be adopted by any city by major vote of the aldermen and council, or council, as the case may be.

Takes effect on passage

SECT. 2. This act shall take effect upon its passage.

[Approved April 6, 1909.]

Tab 19

LAW^S
OF THE
STATE OF NEW YORK -

PASSED AT THE
SESSIONS OF THE LEGISLATURE

HELD IN THE YEARS

1777, 1778, 1779, 1780, 1781, 1782, 1783 and 1784, inclusive,

BEING THE FIRST SEVEN SESSIONS.

REPUBLISHED BY THE SECRETARY OF STATE, PURSUANT TO
CHAPTER THREE HUNDRED AND FORTY-ONE OF THE LAWS
OF EIGHTEEN HUNDRED AND EIGHTY-FIVE.

VOLUME I.



ALBANY:
WEED, PARSONS AND COMPANY, PRINTERS.
1886.

CHAP. 33.

AN ACT for regulating the militia of the State of New-York

PASSED the 3d of April, 1778.

Preamble. WHEREAS the wisdom and experience of ages point out a well regulated militia as the only secure means for defending a State against external invasions and internal commotions and insurrections;

And whereas this and the other United States of *America* are now invaded by foreign enemies and the safety of this State may be indangered by intestine commotions and insurrections;

And whereas it is therefore become the duty of the legislature of the State to put the militia thereof on such an establishment as will most effectually encourage a martial spirit, among the people; provide for the internal and external security of the State and enable it most vigorously to co-operate with the other United States in a cause no less noble and exalted than the defence of the common rights and liberties of *America* against hostile tyranny and oppression;

Persons to be enrolled. *Be it therefore enacted by the People of the State of New-York represented in Senate and Assembly, and it is hereby enacted by the authority of the same.* That every able bodied male person Indians and slaves excepted residing within this State from sixteen years of age to fifty (except such persons as are herein after excepted) shall immediately after the passing of this act tender himself to be enrolled as of the militia to the captain or in his absence the next commanding officer of the beat wherein he shall reside who shall inrol him accordingly and in case of delay, or neglect to make such tender as aforesaid the said captain or commanding officer shall cause such person to be enrolled and to be duly warned thereof. In order that the militia may

Enrollment to be made by captains. receive augmentation from the annual increase of the number of the inhabitants of this State that every captain or other commanding officer of a company shall from time to time enter on the said roll every male person able bodied and free (except as herein before and after excepted) who shall from time to time arrive at the age of sixteen years or come to reside or sojourn within his beat and without delay notify such inrollment to each person so inrolled respectively, by some inferior officer of the company who on oath shall be a competent witness to prove such notice. That if any dispute should arise

Disputes, how to be determined. with respect to the age or ability to bear arms of any person it shall be determined by the captain or commanding officer of the company, with right of appeal to any person who may conceive himself aggrieved, to the colonel or commanding officer of the regiment whose determination in the case shall be final. That every person so inrolled

Equipments. and notified shall within twenty days thereafter respectively furnish and provide himself at his own expence with a good musket or firelock fit for service a sufficient bayonet with a good belt, a pouch or cartouch box containing not less than sixteen cartridges suited to the bore of the musket or firelock each cartridge containing a proper quantity of powder and ball or in lieu of such pouch or cartouch box and cartridges with a quantity of powder and ball respectively disposed of in a powder horn and shot bag and wadding equivalent to such cartridges, and two spare flints a blanket and a knapsack and shall appear, so armed accoutred and provided when called out to exercise or duty as herein after directed except that when called out

to exercise only he may appear without blanket or knapsack. And if any such person shall appear to the captain or commanding officer to be too poor to arm accoutre and provide himself in manner aforesaid he shall be supplied for the purpose out of the monies to arise from the fines from time to time to accrue in the regiment to which he shall belong; and in case of deficiency thereof out of the public magazines of stores of this State by order of the person administering the government of this State for the time being.

That there shall be one brigadier general for the county of *Tryon*, one for the county of *Albany*, one for the bounties of *Gloucester* and *Cumberland*, one for the county of *Charlotte* one for the county of *Dutchess*, one for the county of *Ulster*, one for the county of *Orange*, one for the county of *Westchester*, one for the city and county of *New-York*, one for the counties of *Queens*, *Kings* and *Richmond*, and one for the county of *Suffolk* each of whom shall respectively have rank authority and command in the militia of this State like as a brigadier general in the army of the United States of *America*. But his command unless in the field shall not extend beyond his proper brigade.

Provided nevertheless That it shall be lawful for the person administering the government of this State for the time being, by and with the consent and advice of the council of appointment to appoint colonels commandant instead of brigadiers general in such of the said brigades, as the said person administering the government and council of appointment shall deem necessary and expedient. And that the said colonels commandant shall have the like command in their respective brigades with brigadiers general and when in the field shall take rank of all colonels or other officers commanding regiments and if any person so to be appointed a colonel commandant should be a colonel of a regiment of militia he shall still continue in the command of the said regiment.

That the present division of the State into regiments and companies shall be and remain, with power nevertheless to the person administering the government of this State for the time being by general orders to be issued for that purpose to abridge or enlarge the limits of the present regiments or companies, or to form new regiments or companies as he from time to time shall think most conducive to the public service. Copies of such general orders to be filed in the clerks office of the county where the regiment or company shall be.

That each brigadier general shall have one brigade major of his own choice, each of whom shall rank as major in the militia.

That each regiment shall have and be commanded by one colonel, one lieutenant-colonel, and one major unless in cases where it shall be thought necessary to appoint two majors with the rank authority and command to them respectively belonging as field officers. That each company shall be officered by one captain, one first lieutenant, one second lieutenant and one ensign as commissioned officers and by four serjeants four corporals one drummer and one fifer, and the staff of each regiment shall be one adjutant and one quarter master who shall respectively rank as first lieutenants. And the serjeants, corporals, drummers and fifers shall be appointed by the captains or other commanding officers of the several companies; and if any person so to be appointed a sergeant or corporal shall refuse to accept the said office he shall forfeit the sum of five pounds to be adjudged levied and disposed of in manner as is herein directed, in cases of persons neglecting squad duty.

Colors. That each regiment shall be provided with a standard or colours at the expence of the field officers, and each company with a drum and a fife, at the expence of the commissioned officers thereof.

Troopers. *And whereas* it is or may be necessary that some troops of horse and companies of grenadiers be kept up within this State, that therefore in each county there may be troopers not exceeding fifty officers included to be formed into one or two troops each having one captain one first and one second lieutenant, and one cornet, two serjeants and two corporals to be composed of volunteers from the foot militia of this State, or others already in the horse service, and also a company of grenadiers in each regiment of foot which may conveniently furnish the same. That the said troops of horse and companies of granadiers shall respectively be formed and composed of volunteers in the respective beats and regiments respectively inhabiting at such convenient distances from each other that they may with ease and dispatch be called out for training and discipline, or for service. *Provided*, That no grenadier company shall be established in any regiment, except with the consent of all the field officers nor exceed sixty men officers included.

**Enlist-
ments to
be certi-
fied.** That on every such inlistment of a volunteer the captain of such troop of horse or of such company of Grenadiers do immediately certify to the captain of the beat from which such volunteer shall inlist, the inlistment of the said voluntier into the troop of horse or company of grenadiers.

**Equip-
ments.** That each trooper shall be equipt furnished and provided with a good serviceable horse at least fourteen hands high with a good saddle, housen, holsters breast-plate and crupper a case of good pistoels, a good horseman's sword, a pair of boots and a pair of spurs and a carbine well fixed with a good belt swivel and buckets and a cartridge box to contain twelve cartridges at least. That each grenadier shall be be equipt and furnished with a grenadier's cap a good musket and bayonet a broad sword a belt, pouch or cartridge box and so equipt and furnished, they the troopers and grenadiers shall respectively be called out in squads and companies as often (for the usesand purposes intended by this law) and under the direction of their inferior and principal officers as is hereby required with respect to the rest of the militia of this State.

**Appear-
ance at re-
views,
training
days, etc.** That each non commissioned officer and private shall at every exercise by squads as herein after mentioned, and at every company or regimental training field day or ;review herein after directed, attend at the place or parade allotted for the squad, company or regiment to which he shall belong armed accoutred and provided as above directed.

**Companies
to be di-
vided into
squads,
etc.** That the several companies of militia, horse and foot shall each be divided by the commissioned officers thereof into four squads, and one squad thereof shall be exercised and trained to discipline by the captain and the other three squads, by the other three commissioned officers of the company respectively, on each of which squads of foot one serjeant and one corporal and of which squads of horse one serjeant or one corporal shall attend for the purpose of assisting in exercising and training the squad, and in forming the squads, attention shall be paid to the respective places of abode of the several officers and privates of the company, by placing the privates respectively in the squad belonging to the officer nearest to whom they shall respectively reside. And the several officers are hereby authorized and required to call out their respective squads and exercise and discipline them twice a month sufficiently for their due instruction and improvement. That in order

to the same purpose and for compleating proper company returns every captain or other commanding officer of every company of militia whether horse or foot shall once in every two months call out his company to his place of parade which shall be the most convenient for the purpose where he shall parade his company, see that the non commissioned officers and privates are properly armed accoutred equipped and provided; note the several defaulters and sufficiently exercise and discipline the company for their due instruction and improvement. And if upon such exercise and discipline it shall appear to the officers of the said company or the majority of them that any of the said men are so perfect in the exercise as that they ought to be excused from squad duty, they are hereby authorized to give such person or persons an exemption from squad duty under their hands.

Company parades.

Exemptions from squad duty.

That each colonel or commanding officer of a regiment shall in the first or second week in *April* and in the first or second week in *November* in every year call out his regiment to his regimental parade, which shall be the place in his district the most convenient for the purpose and having paraded the same shall require from the captain or commanding officer of every beat in the regiment a return thereof expressing the exempts, and the absentees and the causes of the respective exemptions and absences, cause the said regiment except the exempts thus paraded, to be called by the company rolls and the arms, ammunition and accoutrements of each man to be examined, and the defaulters to be noted, and shall cause them to be sufficiently exercised trained and disciplined for their instruction and improvement, and shall within two weeks thereafter respectively make or cause a compleat regimental return (expressing therein by name the exempts or absentees) to be made to the governor or commander in chief for the time being until a brigadier-general be appointed to the brigade to which the regiment shall belong.

Regimental parades.

That every troop of horse, shall on every regimental field day above mentioned attend and parade with the regiment under the command of the colonel, or other field officer of the district wherein the captain of the said troop shall reside and the captain or commanding officer of the troop, shall there be required by the colonel or commanding officer of the regiment to make him a proper return of the troop in the same manner as is above directed to be required of the captain of the companies of foot belonging to the regiment cause them to be called off by the return and proper inspection to be made of their respective horses arms, ammunition and accoutrements and their respective defaults to be noted. And shall cause the captain or commanding officer of the troop to train exercise and discipline the same sufficiently for their instruction and improvement, and shall include them in his regimental return aforesaid.

Troops of horse to parade with regiment.

That every commissioned officer of the militia in this State who shall omit or neglect to perform any of the duties by this act enjoined on him of inrolling training exercising and disciplining in and to the use of arms the militia of this State or making perfect returns of the militia or not calling out to actual service the militia or any part thereof when necessary; and shall if under the rank of a brigadier be thereof convicted by a brigade court martial from the brigade to which he shall belong consisting of at least thirteen members, which court martial the brigadier is hereby authorised and required to appoint and direct to sit, and the sentence thereon be confirmed in manner herein after mentioned be *ipso facto* removed from his office and reduced to do duty in the ranks, as a foot soldier any exemption from duty to the contrary in any wise notwithstanding.

Officers neglecting duty to be court-martialed.

Meeting of
general
and field
officers to
review
court-mart-
ial pro-
ceedings.

And be it enacted by the authority aforesaid That the brigadier general and the field officers of each brigade shall on the second Tuesday in January and the second Tuesday in June yearly and every year meet together at such town or place within the brigade as the brigadier general shall appoint. To which meeting all sentences of courts martial in such brigades not before confirmed or disallowed shall be brought and shall by the said brigadier general or next commanding officer and field officers or the majority of them be respectively confirmed or disallowed upon determining all which the brigadier general or next commanding officer shall sit as president and shall immediately thereafter particularly report under his hand to the person administering the government of this State all such sentences as shall be so confirmed, and all brigadier generals, for offences, not particularly provided for in this law, shall be tried by a general court martial to be appointed by the commander in chief of the militia of this State and if on conviction the sentence thereof be confirmed by such commander in chief of the militia for the time being, that thereupon such brigadier general shall be removed from his office. That all sentences of courts martial so confirmed shall be by the person administering the government of this State, from time to time laid before the council of appointment to the end that they may appoint others instead of the officers so found guilty.

Fines for
non-ap-
pearance
by non-
commis-
sioned off-
icers, etc.

That every foot soldier of the said militia who shall neglect to appear when called out, without sufficient excuse shall for every such offence forfeit the sum of twenty shillings and if he shall appear wanting any of the arms ammunition or accoutrements prescribed for him by this law without sufficient excuse he shall for every deficiency forfeit the sum of eight shillings; and if any noncommissioned officer or private in any troop of horse shall be charged with either of the said offences and shall not have sufficient excuse he shall forfeit for the offence of not appearing forty shillings and for every other of the said offences sixteen shillings. That all fines to arise from offences in a squad or company only shall be adjudged of and inflicted by the commissioned officers of such company and shall be levied with costs by warrant under the hand and seal of the captain or the commanding officer respectively directed to one or more of the sergeants of the said company by distress and sale of the goods and chattels of the offender and paid by the sergeant or sergeants to the said captain of the company or commanding officer. And that all fines to arise from the like offences upon the calling out of a regiment shall be adjudged of and inflicted by the field officers or the major part of them of the regiment and shall be levied, with costs by warrant under the hand and seal of the colonel of the regiment directed to one or more of the sergeants of the said regiment by distress and sale of the goods and chattels of the offenders respectively and by him paid to the said colonel or commanding officer; all which fines shall by them respectively be paid over to the quarter-master of the said regiment to be by him laid out under the direction of the field officers of the said regiment for arming accoutring and furnishing with ammunition the privates thereof in manner aforesaid; and where in any case no goods or chattels shall be found, then on such warrant such sergeant or sergeants shall take the body of the offender and him convey to the common goal of the county there to be kept in safe custody until he pay the said fine with costs and such goaler is hereby required and commanded to receive such offender with the warrant and him safely to keep until he shall have paid the said fine and costs. Which goaler shall on demand by such sergeant or sergeants pay the same to him or them and

How col-
lected.

thereupon such fines shall be disposed of in manner herein before directed for the disposal of fines.

That a captain of horse shall rank as eldest captain of the regiment Rank. and all officers in the militia shall take rank according to the dates of their commissions preference nevertheless being given to him who was entitled to rank, by a former commission before any other person in the same line of office with him to whom he had preference in rank by such former commission.

That from all returns, to be made by the colonels or commanding Returns to be made. officers of regiments respectively to the respective brigadiers general, brigade returns shall without delay be made to the commander in chief.

That one brigade, regiment, troop of horse, or company of foot (except grenadiers who shall form on the right of the regiment) shall not be considered as elder than or having rank or preference of the other. But each brigade regiment, troop of horse and company shall be posted and disposed of in the line on command as the commanding officer on the spot, shall on every occasion or emergency think proper.

That on every emergency of a sudden invasion by the enemy or insurrection within this State, the commanding officer of any brigade regiment or company as the case may require shall immediately draw out the militia under his command and with them oppose the enemy, or the insurgents; and that all brigades, regiments and troops of horse and foot companies of the militia shall from time to time be subject to general brigade regimental and company orders as is usual according to the course and practice of war for suddenly taking the field for the purpose aforesaid. And all such orders by any officer under the rank of commander in chief shall be reported in writing by express to the governor or commander in chief for the time being and also to the colonel or commanding officer of the regiment if given by one under his command and if given by the colonel or the commanding officer of the regiment shall be reported to the brigadier general and if given by the brigadier general to the commander in chief; all which reports shall be acted upon by the respective persons to whom the same shall respectively be made as the emergency may require, and by such persons respectively be reported with their respective doings thereon to his next superior officer and so on in succession till they reach the commander in chief.

That every person in the militia whether officer or private, when called Pay and rations. out into actual service either to act separately or in conjunction with the troops of the United States of *America* shall from the time of his receiving due notice thereof from his commanding officer until he be properly discharged from that Service, if and as long as he shall perform the same and until properly discharged or dismissed be allowed pay and rations, according to the continental establishment; and on every wilful neglect or refusal to march after such notice as aforesaid shall be dealt with as a deserter, or having marched out on such notice, and before his proper discharge or dismissal shall commit any offence or shall before such discharge or dismissal desert from the corps to which he shall belong, or from his post shall for every such offence be subject to the rules and articles established by the continental congress for the better government of the troops raised or to be raised and kept in pay by and at the expence of the United States of *America* which shall be put in execution against the offender by the militia orders and authority in like manner as the same are put in execution in the continental army, against offenders therein by proper orders and authority thereof, and that in all such cases the governor or commander in chief for the time being and all militia officers subordinate to him shall and may enjoy and exercise Liable to rules and articles of war from time of receiving notice.

all the powers by the said rules and articles of war given to the commander in chief of the army of the United States and the several officers subordinate to him in the said army.

Power to order out militia.

That the governor or commander in chief for the time being shall have power and authority from time to time in his discretion to order out the whole or any part of the militia of this State into actual service not only for the defence of this State but to give assistance to any of the other United States, or to reinforce the army of the United States or any part thereof and to cause them to march out of this State for either of the said purposes; *provided always* That none of the militia of this State shall be compelled to do duty out of the same, for a greater space of time than forty days.

Service out of State limited.

Regular courts martial to be instituted.

That for the several purposes aforesaid regular courts martial and of inquiry shall from time to time as cases may require be instituted and formed, and general brigade and regimental orders from time to time given upon the plan directed by the aforesaid rules and articles for the better government of the troops of the said United States, and by the officers in rank respectively in the militia, equal with those respectively authorized for the purpose by the said articles of war. In respect whereof the governor or commander in chief and all militia officers respectively shall be considered as on the same footing as the general and commander in chief of and as the officers in their respective ranks belonging to the army of the United States of *America*. *Provided always*

Proviso as to sentence of commissioned officers.

Proviso as to fine instead of corporal punishment.

That no commissioned military officer except when questioned upon the aforesaid rules and articles of war, shall be sentenced or adjudged to any other punishment than to be broke and rendered incapable of any military office whatsoever within this State. *And provided also* That it shall and may be lawful for a court martial, whenever they shall conceive it proper to fix and determine a fine for which any person adjudged to receive corporal punishment may commute such punishment, and if the said fine shall be paid within the time by the court martial for that purpose limited, the said person shall be accordingly acquitted of such corporal punishment. That all such fines shall be paid into the hands of the eldest militia officer from this State on the spot, and shall by him be paid into the treasury of this State.

Privates to be divided into classes and perform tour of duty in numerical order.

Tours of duty to be determined by ballot.

That a roll of the privates of each company, horse and foot shall be made and divided by the captain or commanding officer of the company, into eight classes, as nearly equal in number to each other as conveniently may be and a sergeant or a corporal shall be allotted on the roll by the captain or commanding officer to each class; which said eight classes in each company shall, on detachments or drafts in pursuance of this law perform their tour of duty in numerical order; and to ascertain which class shall take the first, which the second which the third and which the fourth tour of duty on detachment and so on to the eighth class; eight slips of paper numbered respectively from one to eight inclusively shall be so rolled up or otherwise closed as to conceal the number, and being put into a hat box or vessel and well shook together in the same the sergeant or corporal of each class shall in the order to be directed by the captain or commanding officer in behalf of his class take out one of the ballots, and the numbers drawn by the sergeants and corporals respectively, shall determine the respective tours of duty of their several classes. The class which draws number one to have the first tour of duty, and so on the numerical order throughout all the eight classes, determining their respective tours of duty and in the same numerical order shall the eight classes continue their rotation without any new balloting until the numbers respectively contained in each class shall by the events

of war or other accidents become very unequal when there shall be a new balloting as above directed.

That when and as often as the classes shall be thus fixed each captain or commanding officer of each company shall form a roll consisting of the eight classes and containing the names of the men in each class with the names of the sergeant and corporal respectively prefixed to each class and numbered according to the order of balloting ; which he shall keep for his own use guidance and direction and shall notify each sergeant corporal and private to what class he shall belong and shall return a copy thereof with the list of his commissioned officers prefixed thereto, without delay to the colonel or commanding officer of the regiment, who shall enter all such and every other company return, in a book to be kept by him for the purpose.

That the colonel or next commanding officer of the regiment shall on receipt of all the classed returns of the companies in his regiment convene together all the commissioned officers in his regiment and proceed in like manner to fix by ballot the respective tours of duty of all the commissioned officers under the rank and degree of a field officer from and including number one to and including such number as shall be equal to the number of companies in the regiment. Which balloting shall be made separately and severally in the four several lines of office and be entered by the colonel or commanding officer in his said book, as also the quota of each detachment both as to officers and privates in order thereby from time to time to ascertain the rotation of the service of both; which shall ever be determined by such quota's respectively.

That if there be two majors belonging to a regiment they shall decide by lot which of them shall take the first tour of duty and the order or tour of duty thereby established shall ever after govern.

That to establish the rotation of duty on detachments among the several field officers in the regiments composing a brigade, the colonels, lieutenant colonels and majors shall without delay meet together and decide the same by several and separate lots in numerical order as aforesaid in the several lines of office; which being done a roll thereof shall immediately be made, and subscribed by them all and returned to the brigadier general of the brigade.

That to a brigadier generals command of detachments the person administering the government shall appoint such brigadier respectively as shall in his judgment appear most proper for advancement of the service.

That every private shall be allowed to substitute on detachments an able bodied private in his stead who shall nevertheless take his own tour of duty in the order wherein it shall have been fixed as aforesaid; and that in case by sickness or unavoidable accident an officer or private shall be prevented from taking his tour of duty on any detachment, the next to him on the respective rolls of detachment without regard to classes with respect to privates shall fill his place and the person so prevented shall in return take the proper next tour of duty on detachment, of him so filling his place; and all classings as aforesaid shall go on in rotation in the several numerical orders abovementioned, as long and as often as the public service shall require the same. *Provided always That* the governor or commander in chief of the militia for the time being shall and may from time to time in his discretion order out on detachment as great a part of any brigade or regiment or troop of horse, or the whole militia into actual service; and also that the like discretionary power may on sudden emergencies and without waiting for the order of his superior officer, be exercised by the commanding officer of any brigade, or regiment or troop of horse, or foot company respectively over

Roll of classes.

Tours of duty to be fixed by ballot.

Brigadier to be appointed by governor.

Substitutes to be allowed.

Governor may order out whole or part of force.

Emergency cases like power exercised by com-

manding officers. each such brigade regiment troop of horse or foot company respectively giving notice thereof in writing without delay, together with all things relating thereto as well to his commanding officer as to the governor or commander in chief for the time being.

Persons exempt from serving in enrolled militia. That all persons under the age of fifty five years, who have held civil or military commissions and are not or shall not be reappointed to their respective proper ranks of office and all other persons between the ages of fifty and fifty five years who have not associated and elected their officers, and shall associate themselves in manner herein after mentioned, shall be exempted from serving as part of the enrolled militia and within eight weeks after the passing of this act form themselves into voluntary associated regiments or companies according to their number in each respective county and recommend their own officers; and that all such associated regiments or companies whether already associated or hereafter to associate shall make returns thereof respectively to the governor or commander in chief for the time being without delay after the said term of eight weeks, who with the advice of the council of appointment shall issue commissions to them accordingly. In default of which returns they shall respectively do duty in the ranks with the militia of the beat within which they shall respectively reside until they shall respectively associate as aforesaid. That the substance of such associations shall be, that the associators will severally on all occasions obey the orders of their respective commanding officers and will in cases of invasion or incursions of the enemy or insurrections march to repel the enemy or suppress such insurrection, in like manner as the enrolled militia are compelled to do: So as that they shall not when called out in detachments be annexed to any other regiment or company or be under the immediate command of any other than their own officers.

Ibid.

That the lieutenant-governor, members of the senate members of the assembly and their several clerks and all judicial officers, the secretary of this State, and two of his deputies, the treasurer, the auditor-general, and the attorney-general of this State, the commissioners for defeating conspiracies the clerks and registers of courts and the county clerks and sheriffs and their respective deputies not exceeding one and the coroners not commissioned in the militia and all ministers of the Gospel and all physicians and surgeons except in their several and respective professions and callings and the actual occupant of every grist mill, and all ferrymen licensed by the governor or commander in chief for the time being shall notwithstanding their being respectively able bodied above sixteen and under sixty years of age and all such persons in the service or employ of the United States or of this State or engaged or employed in any manufacture or business so that it would be for the good of the public that they should be exempted, who shall procure special exemptions from the commander in chief of the militia for the time being under his hand shall respectively be exempted from training and doing duty in the militia. But shall nevertheless be armed accoutred and provided as above mentioned.

Ibid.

That all those male persons between the ages of sixteen and fifty five years who in judgment of law are or shall be of the people called Quakers shall be exempted from all personal military service whatsoever to which they would respectively be subject by this law were they not respectively of the people called Quakers. And for such exemption shall yearly and every year severally pay the sum of ten pounds in lieu of all military service whatsoever required by this law except services on detachments and calling out the militia for actual service by virtue of this law in which cases each of them shall annually pay the sum of ten pounds

Payment to be made for exemption.

and for the purpose of levying the said annual sums the captain of every beat shall annually return to the supervisors of the district wherein he shall reside a list of such Quakers as aforesaid residing within his beat. And the supervisors of the county at either of their meetings shall make out a separate tax list thereon with a warrant to be issued by them to the collectors respectively for levying the same in the manner prescribed by a certain law passed by the legislature of this State during this session entitled *An act for raising monies to be applied towards the public exigencies of this State*" and the monies to be levied on such warrant shall be paid and disposed of in such manner and subject to such deductions as by the said law is directed with respect to the monies to be levied by the said law on personal estates within this State, and in default of goods and chattels of any Quaker so to be assessed as aforesaid the warrant for levying the same shall authorize the collector to commit him to the county gaol and the keeper of the said gaol is hereby required to keep him in safe and secure custody in the said gaol until he shall have paid the sums so assessed on him as aforesaid, to the said collector who is hereby required to dispose of the same in manner aforesaid. *Provided always* That this law or any thing in the same contained shall not in cases of drafts or detachments of the militia affect any person who has furnished or shall furnish a sufficient able bodied man for service in one of the five continental regiments of this State pursuant to law. That in all cases where notice is required by this act verbal notice to the party himself or left at his usual place of abode with a person of the years of discretion by any commissioned or non commissioned officer or corporal of the company, shall be deemed a legal and sufficient notice.

And lastly That every article, clause, provision, matter or thing in any law or resolution of the legislature, or any provincial congress, or convention or committee, or council of safety of this State for the regulation of the militia thereof which is repugnant to, or in any wise inconsistent with the provisions hereby made, or any or either of them, shall be and the same are hereby declared and enacted to be absolutely repealed and made null and void to all intents constructions and purposes whatsoever. And this act shall continue in force for the space of two years from the publication thereof and no longer.

Tax list
and war-
rant to be
issued by
supervis-
ors.

Proviso as
to persons
furnish-
ing substi-
tutes.

Inconsist-
ent acts
repealed.

CHAP. 34.

AN ACT to regulate the wages of mechanicks and labourers, the prices of goods and commodities and the charges of inn-holders, within this State, and for other purposes therein mentioned.

PASSED the 3d April, 1778.

WHEREAS the honorable the congress of the United States of *Preamble.* *America* by certain resolutions bearing date the twenty second day of *November* in the year of our Lord one thousand seven hundred and seventy seven, did among other things therein mentioned recommend to the legislatures of the respective states of *New-Hampshire, Massachusetts-Bay, Rhode-Island and Providence Plantations Connecticut, New-York, New-Jersey, Pennsylvania and Delaware* respectively to appoint commissioners to convene at *New-Haven* in *Connecticut* on the fifteenth day of *January* then next in order to regulate and ascertain the price of

Tab 20

And be it further enacted by the authority aforesaid That whenever any Warrant to issue against witnesses refusing to appear. person shall refuse to appear and make affidavit in pursuance of such summons, a warrant shall issue from such judge or magistrate to compel his appearance, and if on his appearance he shall refuse to make affidavit, or affirmation if a Quaker, of the fact which may be within his knowledge touching the matters in question, he shall be committed to the common gaol of the county, there to remain without bail or mainprise for the term of six callender months.

CHAP. 27.

AN ACT to repeal an act entitled An act to revive and amend an act entitled an act more effectually to prevent robberies within this State.

PASSED the 10th of April, 1784.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, Act named repealed. That the act entitled "An act to revive and amend an act entitled an act more effectually to prevent robberies within this State," passed the first day of July, one thousand seven hundred and eighty, shall be, and the same is hereby repealed.

CHAP. 28.

AN ACT to prevent the danger arising from the pernicious practice of lodging gun powder in dwelling houses, stores, or other places within certain parts of the city of New York, or on board of vessels within the harbour thereof.

PASSED the 13th of April, 1784.

WHEREAS the storing of gun powder within the city of New York is dangerous to the safety thereof.

Be it therefore enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, Unlawful to keep gunpowder in quantities exceeding twenty-eight pounds except in public magazine, etc. That from and after the passing of this act, it shall not be lawfull for any merchant, shopkeeper, or retailer, or any other person, or persons whatsoever, to have or keep any quantity of gun powder exceeding twenty-eight pounds weight, in any one place, less than one mile to the northward of the city hall of the said city, except in the public magazine at the Fresh-water, and the said quantity of twenty-eight pounds weight, which shall be lawfull for any person to have and keep at any place within this city, shall be separated into four stone jugs or tin canisters, which shall not contain more than seven pounds each, on pain of forfeiting all such gun powder, and the sum of fifty pounds for every hundred weight, and in that proportion for a greater or lesser quantity, Penalty. and upon pain of forfeiting such quantity which any person may lawfully keep as aforesaid, and which shall not be separated as above directed, with full costs of suit to any person, or persons, who will inform and sue for the same, by any action, bill, or information, in any of the courts of record, in this city, who are hereby empowered, and required, to give special judgment in such action bills or informations, to be brought

by virtue of this act, as well for the recovery of the value of such gun powder in specie, as for the penalty aforesaid, besides costs, and to award, effectual execution thereon, provided always that all suits, actions, or prosecutions to be brought, commenced, or prosecuted, against any person or persons, for any thing done in pursuance of this act, shall be commenced and prosecuted without willful delay, within two callender months next after the fact was committed, and not otherwise.

And whereas vessels arriving from sea, and having onboard as part of their cargo a quantity of gun powder.

Gunpowder on vessels to be landed before vessel hauls alongside of wharf, etc.

Be it enacted by the authority aforesaid, That the commander, or owner or owners, of all such ships or vessels, having gun powder onboard, shall, within twenty-four hours after her arrival in the harbour, and before they haul along side of any wharf, pier or key within the city, land the said gun powder, by means of their boat or boats, or any other craft, at any place along the ship yards on the East river, or at any place to the northward of the air furnace on the North river, which may be most contiguous to the magazine at Fresh water, and shall cause the same to be stored there, or in any other proper magazine, which now is or hereafter may be built for that purpose, at any place to the northward thereof, on pain of forfeiting all such gun powder, to any person or persons, who will inform and sue for the same, in like manner, as is herein before directed, with respect to the having and storing of gun powder within the city as aforesaid.

How gunpowder to be transported through streets of city.

And in order to prevent any fatal consequences which may arise, from the carriage of gun powder, in and through the streets of the city of New York, by carts, carriages, or by hand, or otherways, it shall be in tight cask, well headed and hooped, and shall be put into bags or leather-cases, and intirely covered therewith, so as that none be spilt or scattered in the passage thereof, on pain of forfeiting all such gun powder, as shall be conveyed through any of the streets aforesaid in any other manner than is herein directed, and it shall and may be lawfull for any person or persons, to seize the same to his or their own use and benefit — provided the person or persons so offending, be thereof lawfully convicted, before the mayor, recorder, or any two justices of the city aforesaid. And that it shall and may be lawfull, for the mayor recorder, or any two justices of the peace of the city and county of New York, upon demand made by any inhabitant or inhabitants of the said city, who assigning a reasonable cause of suspicion on oath, of the sufficiency of which the said mayor or recorder, or justices, is and are to judge, to issue his or their warrant or warrants, under his or their hands and seals, for searching in the day time

Warrant to search in day time for gun powder unlawfully stored may be issued, etc.

for gun powder in any building or place whatsoever, within the limits aforesaid, or any ship or vessel within forty eight hours after her arrival in the harbour, or at any time after any such ship or vessel shall and may have hawled alongside of any wharf pier or key within the limits aforesaid, and that upon any such search, it shall be lawfull for the searchers or persons finding the same, immidiately to seize, and at any time within twelve hours after such seizure, to cause the same to be removed to the magazine at Fresh water, or to any other proper magazine, which now is or hereafter may be at any place north of Fresh water aforesaid, and the same being so removed, it shall be lawfull to detain and keep the same untill it shall be determined by the mayor, recorder or any two of the justices of the peace of the city and county aforesaid, whether the same shall be forfeited by virtue of this act, and the person or persons so detaining the same, shall not be subject or liable to any action or suit, for the detention thereof, provided always that nothing in the act con-

tained, shall be construed to authorize any person, having such warrant to take advantage of the same, for serving any civil process of any kind whatsoever.

And be further enacted by the authority aforesaid, That if any gun powder, exceeding the quantity which any person by this act may lawfully keep in his custody, shall be found during any fire, or alarm of fire, in the said city, by any of the firemen of the said city, it shall be lawful for him to seize the same, without warrant from a magistrate, and to hold and have the same to his own use, any thing in this act to the contrary notwithstanding. This act to be and continue in force from the passing thereof, until the twenty-eighth day of February in the year of our Lord one thousand, seven hundred and eighty six.

CHAP. 29.

AN ACT to lengthen the terms of the inferior courts of common pleas and general sessions of the peace, in the counties of Westchester, Queens and Richmond; and for other purposes therein mentioned.

PASSED the 13th of April, 1784.

WHEREAS the duration of the terms of the inferior courts of common ^{Preamble.} pleas and general sessions of the peace, in the counties of Westchester, Queens and Richmond; which, in the county of Westchester, continue from the fourth Tuesday in May until the Friday following, and from the first Tuesday in November until the Friday following, in every year; in Queens county, from the third Tuesday in May until the Friday following, and from third Tuesday in September until the Friday following, in every year; and in Richmond county, from the first Tuesday in May until the Friday following, and from the last Tuesday in September until the Friday following, in every year, are found from experience, to be too short for the discharge of the necessary business in the said respective courts.

Be it therefore enacted by the People of the State of New York represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the terms of the inferior courts of common pleas and general sessions of the peace in the county of Westchester, shall hereafter commence on the fourth Monday in May and first Monday in November, in every year, and shall continue until the several Saturdays next following, inclusive; that the terms of the inferior courts of common pleas and general sessions of the peace in Queens county, shall commence on the third Mondays in May and September, in every year, and shall continue until the several Saturdays next following, inclusive; and that the inferior courts of common pleas and general sessions of the peace in the county of Richmond, shall commence on the first Monday in May and last Monday in September, in every year, and shall continue until the several Saturdays next following, inclusive. That all process issued out of the said respective courts, and made returnable on the usual return days, and all recognizances by which any person or persons shall be bound to appear on the said usual return days, shall be deemed good and valid on such days, although such days of return and appearance, are by this act, respectively altered.

Tab 21

Chap. 195.

AN ACT to amend the penal law, in relation to the sale and carrying of dangerous weapons.

Became a law May 25, 1911, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 88
§§ 1896;
1897, 1899
amended.

Section 1. Sections eighteen hundred and ninety-six, eighteen hundred and ninety-seven and eighteen hundred and ninety-nine of chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws," are hereby amended to read as follows:

§ 1896. Making and disposing of dangerous weapons. A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as a blackjack,¹ slingshot, billy, sandclub, sandbag, bludgeon,² or metal knuckles, to any person; or a person who offers, sells, loans, leases, or gives any gun, revolver, pistol or other firearm or any airgun, spring-gun or other instrument or weapon in which the propelling force is a spring or air or any instrument or weapon commonly known as a toy pistol or in or upon which any loaded or blank cartridges are used, or may be used, or any loaded or blank cartridges or ammunition therefor, to any person under the age of sixteen years, is guilty of a misdemeanor.

§ 1897. Carrying and use of dangerous weapons. A person who attempts to use against another, or who carries, or possesses, any instrument or weapon of the kind commonly known as a blackjack,¹ slingshot, billy, sandclub, sandbag,² metal knuckles or bludgeon,² or who, with intent to use the same unlawfully³ against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon,⁴ is guilty of a felony.

¹ Word "blackjack" new.

² Words "sandbag, bludgeon" new.

³ Word "unlawfully" new.

⁴ Words "razor, stiletto, or any other dangerous or deadly instrument or weapon," new.

Any person under the age of sixteen years, who shall have, carry, or have in his possession,⁵ any of the articles named or described in the last section, which it is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor.

⁶Any person over the age of sixteen years, who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be *prescribed by ordinance in such city, village or town, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village, or town of this state, any pistol, revolver, or other firearm without a written license therefor, theretofore issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or town, shall be guilty of a felony.⁷

⁸Any person not a citizen of the United States, who shall have or carry firearms, or any dangerous or deadly weapons in any public place, at any time, shall be guilty of a felony. This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, policemen, or to other duly appointed peace officers, nor to duly authorized military or civil organizations, when parading, nor to the members thereof when going to and from the places of meeting of their respective organizations.

§ 1899. Destruction of dangerous weapons. The unlawful⁹ carrying of a pistol, revolver, or other firearm¹⁰ or of an instrument or weapon of the kind usually known as blackjack, bludgeon,¹¹ slingshot, billy, sandclub, sandbag,¹² metal knuckles, or of a dagger,

* So in original.

⁵ Words "in any public place" omitted.

⁶ Following sentence new.

⁷ Formerly "misdemeanor."

⁸ Following sentence formerly read: "No person not a citizen of the United States, shall have or carry firearms or dangerous weapons in any public place at any time."

⁹ Word "unlawful" new.

¹⁰ Words "or other firearm" new.

¹¹ Words "blackjack, bludgeon" new.

¹² Word "sandbag" new.

dirk, dangerous knife, or any other dangerous or deadly weapon,¹³ by any person save a peace officer, is a nuisance, and such weapons are hereby declared to be nuisances, and when any one or more of the above described instruments or weapons shall be taken from the possession of any person the same shall be surrendered to the sheriff of the county wherein the same shall be taken, except that in cities of the first class the same shall be surrendered to the head of the police force or department of said city. The officer to whom the same may be so surrendered shall, except upon certificate of a judge of a court of record, or of the district attorney, that the nondestruction thereof is necessary or proper in the ends of justice, proceed at such time or times as he deems proper, and at least once in each year, to destroy or cause to be destroyed any and all such weapons or instruments, in such manner and to such extent that the same shall be and become wholly and entirely ineffective and useless for the purpose for which destined and harmless to human life or limb.

<sup>§ 1914
added.</sup>

§ 2. Such chapter is hereby amended by adding at the end of article one hundred and seventy-two thereof a new section to be section nineteen hundred and fourteen and to read as follows:

§ 1914. Sale of pistols, revolvers and other firearms. Every person selling a pistol, revolver or other firearm of a size which may be concealed upon the person whether such seller is a retail dealer, pawnbroker or otherwise, shall keep a register in which shall be entered at the time of sale, the date of sale, name, age, occupation and residence of every purchaser of such a pistol, revolver or other firearm, together with the calibre, make, model, manufacturer's number or other mark of identification on such pistol, revolver or other firearm. Such person shall also, before delivering the same to the purchaser, require such purchaser to produce a permit for possessing or carrying the same as required by law, and shall also enter in such register the date of such permit, the number thereon, if any, and the name of the magistrate or other officer by whom the same was issued. Every person who shall fail to keep a register and to enter therein the facts required by this section, or who shall fail to exact the production of a permit to possess or carry such pistol, revolver or other firearm, if such permit is required by law, shall be guilty of a misdemeanor. Such register shall be open at all reasonable hours for

¹³ Words "or any other dangerous or deadly weapon," new. Words "without lawful permission, license or authority so to do," omitted.

the inspection of any peace officer. Every person becoming the lawful possessor of such a pistol, revolver or other firearm, who shall sell, give or transfer the same to another person without first notifying the police authorities, shall be guilty of a misdemeanor. This section shall not apply to wholesale dealers.

§ 3. This act shall take effect September first, nineteen hundred and eleven. In effect Sept. 1, 1911.

Chap. 196.

AN ACT to amend chapter fifty-two, laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," in relation to officers taking acknowledgments.

Became a law May 29, 1911, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and ten of chapter fifty-two of the laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," is hereby amended so as to read as follows:

§ 310.¹ A certificate of acknowledgment or proof, made within the state, by a commissioner of deeds, justice of the peace, or, except as otherwise provided by law, by a notary public, does not entitle the conveyance to be read in evidence or recorded, except within the county in which the officer making the same is authorized to act² at the time of making such certificate, unless authenticated by a certificate of the clerk of the same county; provided, however, that all certificates of acknowledgments or proof, made by or before a commissioner of deeds of the city of New York residing in any part therein, shall be authenticated by the³ clerk of any county within said city, in whose office such commissioner of deeds shall have filed a certificate under the hand and seal of the city clerk of said city, showing the appointment and

¹ Section heading amended out.

² Words "making the same is authorized to act" substituted for word "resides."

³ Words "city clerk of said city, that the said commissioner of deeds was duly appointed and qualified as such," omitted.

Tab 22

THE
REVISED CODES
OF THE
STATE OF NORTH DAKOTA

1895

TOGETHER WITH
THE CONSTITUTION OF THE UNITED STATES AND OF THE
STATE OF NORTH DAKOTA

WITH THE AMENDMENTS THERETO

BY AUTHORITY OF THE LEGISLATIVE ASSEMBLY.

BISMARCK, NORTH DAKOTA
TRIBUNE COMPANY, PRINTERS AND BINDERS
1895

gist, shall sell or give away any poison or poisonous substances except to practicing physicians, in their ordinary practice of medicine without recording in a book, to be kept for that purpose, the name of the person or persons receiving such poison, and his, her or their residence, excepting upon the written order or prescription of some practicing physician whose name must be attached to such order or prescription. No person shall sell, give away or dispose of any poisonous substance without attaching to the phial, box or parcel containing such poisonous substance a label with the word "poison," printed or written upon it, in plain and legible characters.

§ 7304. **Violation, misdemeanor.** Any person violating any of the provisions of section 7303 shall be deemed guilty of a misdemeanor.

§ 7305. **Record subject to inspection.** Every person whose duty it is by section 7303 to keep any book for recording the sale or gift of poisons, who willfully refuses to permit any person to inspect said book upon reasonable demand made during business hours, is punishable by fine not exceeding fifty dollars.

§ 7306. **Laying out poison. Exception.** Every person who shall lay out strichnine or other poison, within the limits of any town, or within one mile of any dwelling house or any barn, stable or outbuilding, used at the time for the keeping or shelter of horses, cattle, sheep or swine, or within one half mile of any traveled thoroughfare, on the ceded lands of this state, is guilty of a misdemeanor; provided, nothing in this section shall be construed to prohibit the putting out at any time of poisoned grain, for the purpose of killing gophers.

§ 7307. **Omitting to mark baled hay.** Every person who, in putting up or pressing any bundle of hay for market, omits to put the number of pounds in each bundle or bale so put up, for which he sells or offers to sell it, is guilty of a misdemeanor.

§ 7308. **Fraudulently increasing weight.** Every person who, in putting up in any bag, bale, box, barrel or other package, any hops, cotton, hay or other goods usually sold in bags, bales, barrels or packages, by weight, puts in or conceals therein anything whatever, for the purpose of increasing the weight of such bag, bale, box, barrel or package, is punishable by a fine of twenty-five dollars for each offense.

§ 7309. **Adulterating food or medicines.** Every person who adulterates or dilutes any article of food, drink, drug, medicine, strong, spirituous or malt liquor or wine, or any article useful in compounding either of them, whether one useful for mankind or for animals, with a fraudulent intent to offer the same, or cause or permit it to be offered for sale as unadulterated or undiluted; and every person who fraudulently sells or keeps or offers for sale the same as unadulterated or undiluted, knowing it to have been adulterated or diluted, is guilty of a misdemeanor.

§ 7310. **Knowingly selling tainted food.** Every person who knowingly sells or keeps or offers for sale or otherwise disposes of any article of food, drink, drug or medicine, knowing that the same has become tainted, decayed, spoiled or otherwise unwholesome or unfit to be eaten or drank, with intent to permit the same to be eaten or drunk by any person or animal, is guilty of a misdemeanor.

§ 7311. **Manufacturing slung shot.** Every person who manufactures or causes to be manufactured, or sells or offers or keeps for

sale, or gives, or disposes of any instrument or weapon of the kind usually known as sling shot, or of any similar kind, is guilty of a misdemeanor.

§ 7312. Carrying or using sling shot. Every person who carries upon his person, whether concealed or not, or uses or attempts to use against another, any instrument or weapon of the kind usually known as sling shot, or of any similar kind, is guilty of a felony.

§ 7313. Carrying concealed weapons. Every person who carries concealed about his person any description of firearms, being loaded or partly loaded, or any sharp or dangerous weapon, such as is usually employed in attack or defense of the person, is guilty of a misdemeanor.

§ 7314. Willfully firing prairies and marshes. Every person who shall willfully set on fire, or cause to be set on fire, any woods, marshes or prairies, with intention to injure the property of another, shall be deemed guilty of a misdemeanor, and shall be liable for all damages done by such fire.

§ 7315. Negligently firing same. Every person who negligently or carelessly sets on fire or causes to be set on fire, any woods, marshes or prairies, or who, having set the same on fire or caused it to be done, negligently or carelessly or without full precaution or efforts to prevent, permits it to spread beyond his control, shall, upon conviction, be fined not exceeding one hundred dollars and not less than ten dollars, and shall be liable to injured parties for all damages occasioned thereby. One-half of such fine shall, when collected, go to the informer.

§ 7316. Refusing to aid at fires. Every person who, at any burning of a building, is guilty of any disobedience to lawful orders of any public officer or fireman, or of any resistance to or interference with the lawful efforts of any fireman or company of firemen to extinguish the same, or of any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of a misdemeanor.

§ 7317. Unlicensed ferry. Every person who maintains any ferry for profit or hire upon any waters within this state, without having first obtained a license as provided by law, is guilty of a misdemeanor. And any license or lease granted by the board of county commissioners of the proper county shall be exclusive to the lessee or licensee, for a distance of two miles from the place where such ferry is located, up and down such stream either way; and any person who shall ferry, transport or carry or attempt to ferry, transport or carry any passengers, goods, chattels or merchandise, or who shall have, keep or maintain any scow, skiff or boat for the purpose of ferrying, transporting or carrying any passengers, goods, chattels or merchandise upon any water of this state within a distance of two miles of any licensed ferry, shall be guilty of a misdemeanor, and may be punished by a fine not exceeding one hundred dollars, or thirty days imprisonment in the county jail, or by both fine and imprisonment; when such ferry is upon waters dividing two counties, the offenders may be prosecuted in either county.

§ 7318. Violating ferry bond. Every person who, having entered into a bond or obligation, as provided by his ferry charter or any general law on the subject of ferries, to keep and attend a ferry,

Tab 23

ACTS OF A GENERAL NATURE
AND
LOCAL LAWS AND JOINT RESOLUTIONS,

PASSED BY THE
FIFTY-THIRD GENERAL ASSEMBLY,

OF THE

STATE OF OHIO:

AT ITS SECOND SESSION,

BEGUN AND HELD IN THE CITY OF COLUMBUS,

JANUARY 3, 1859,

AND THE FIFTY-SEVENTH YEAR OF SAID STATE.

VOLUME LVI.

COLUMBUS
RICHARD NEVINS, STATE PRINTER.
1859.

AN ACT

To provide for the working of unfinished turnpike roads by supervisors of the highways.

What turnpike roads supervisor may work, &c.

Consent of directors.

Order of township trustees.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for the supervisors of the several road districts within this state, to apply such portion of labor, or money, as they may deem reasonable and just, upon any unfinished turnpike road within their respective road districts, when the same is used by the public free of toll; Provided that the directors of any unfinished turnpike road shall first give their consent to the trustees of the township in which such unfinished turnpike road or roads is located.

Sec. 2. That upon any turnpike road company giving their consent to the trustees of the township, in writing, it shall be the duty of the trustees to issue their order to the several supervisors through whose districts such unfinished turnpike road is located, for them to apply the work and money as provided in the first section of this act.

Sec. 3. This act to be in force from its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.

MARTIN WELKER,
President of the Senate.

March 18, 1859.

AN ACT

To prohibit the carrying or wearing of concealed weapons.

The offense of carrying or wearing concealed weapons.

Penalty.

When the jury shall acquit the accused.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whoever shall carry a weapon or weapons, concealed on or about his person, such as a pistol, bowie-knife, dirk, or any other dangerous weapon, shall be deemed guilty of a misdemeanor, and on conviction of the first offense shall be fined not exceeding two hundred dollars, or imprisoned in the county jail not more than thirty days; and for the second offense, not exceeding five hundred dollars, or imprisoned in the county jail not more than three months, or both, at the discretion of the court.

Sec. 2. If it shall be proved to the jury, from the testimony on the trial of any case presented under the first section of this act, that the accused was, at the time of carrying any of the weapon or weapons aforesaid, engaged in the pursuit of any lawful business, calling, or employment, and that the circumstances in which he was placed at the

time aforesaid were such as to justify a prudent man in carrying the weapon or weapons aforesaid for the defense of his person, property or family, the jury shall acquit the accused.

Sec. 3. This act to take effect and be in force from and after the first day of April next.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

AN ACT

Amendatory to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852.

Swain's R. S.
968-9.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That original section sixty-three, of an act entitled an act to provide for the organization of cities and incorporated villages, passed May 3, A. D. 1852, be so amended as to read as follows: Sec. 63. The city council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons, within the city, and shall cause the same to be kept open, and in repair, and free from nuisances. No street or alley, which shall hereafter be dedicated to public use by the proprietor of ground in any city, shall be deemed a public street or alley, or to be under the care or control of the city council, unless the dedication shall be accepted, and confirmed by an ordinance specially passed for such purpose; they shall have the power to prescribe by ordinance the width of the tires of all wagons, carts, drays, and other vehicles, used in the transportation of persons or articles from one part of the city to another, or in the transportation of coal, wood, stone, lumber, or iron, into the city; to establish stands for hackney coaches, cabs, and omnibuses, and to enforce the observance and use thereof, and to fix the rates and prices for the transportation of persons and property in such coaches, cabs and omnibuses, from one part of the city to another.

Care, supervision and control of city highways, bridges, streets, alleys, public squares and commons.

Sec. 2. That original section sixty-three of the act to which this is amendatory be and the same is hereby repealed, and this act shall take effect and be in force from and after its passage.

Sec. repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

Tab 24

THE CODES
AND
GENERAL LAWS OF OREGON.

COMPILED AND ANNOTATED

BY

WILLIAM LAIR HILL.

IN TWO VOLUMES.

VOL. I

[PUBLISHED BY AUTHORITY OF STATUTE OF FEBRUARY 26, 1885.]

SECOND EDITION,
INCLUDING STATUTES AND DECISIONS TO 1882.
STAT.

SAN FRANCISCO:
BANCROFT-WHITNEY COMPANY,
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1882.

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diately delivered to the officer authorized in such order <sup>Oct. 18, 1862,
§ 45.</sup> to receive it, he receipting for the same, and describing <sup>Resisting
militia officer.</sup> their condition in such receipts, and if the property mentioned in such order shall not be promptly delivered as directed, the officer named in such order is hereby authorized to take immediate possession of the same in the name of the state; and any person resisting such officer in the performance of this duty shall be deemed guilty of a misdemeanor, punishable by imprisonment for not more than six months in the county jail, and shall be subject to a fine not exceeding five hundred dollars, to be recovered by an action brought by the district attorney in the name of the state, and be paid into the treasury as a part of the military fund.

§ 1968. Each and every person who shall deal, play, <sup>Oct. 20, 1876, § 1.
Laws of 1876,
p. 89.</sup> or carry on, open or cause to be opened, or who shall ^{Gambling.} conduct either as owner, proprietor, or employee, whether ^{15 or 20.} for hire or not, any game of faro, monte, roulette, rouge-
et-noir, lansquenet, rondo, vingt-un [or twenty-one], poker, draw-poker, brag, bluff, thaw, or any banking or other game played with cards, dice, or any other device, whether the same be played for money, checks, credits, or any other representative of value, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, and shall be imprisoned in the county jail until such fine and costs are paid; *provided*, that such person so convicted shall be imprisoned one day for every two dollars of such fine and costs; *and provided further*, that such imprisonment shall not exceed one year.

The act of October 20, 1876, of which the above is section 1, contains numerous provisions touching civil action for losses sustained in unlawful gambling, and forms a distinct chapter in the general laws, which see.

§ 1969. It shall be unlawful for any person to carry <sup>Feb. 18, 1885, § 1.
Laws of 1885,
p. 83.</sup> concealed about his person in any manner whatever <sup>Carrying
concealed
weapons.</sup> any revolver, pistol, or other fire-arm, or any knife (other than an ordinary pocket-knife), or any dirk or dagger, slung-shot or metal knuckles, or any instrument by the

Feb. 18, 1885,
§ 2, 8, 4.
Laws of 1885.
p. 22.

Penalty and
jurisdiction.

Feb. 16, 1887, § 1.

Wrongfully
wearing Grand
Army badge.

Id., § 2.

Jurisdiction.

use of which injury could be inflicted upon the person or property of any other person.

§ 1970. Any person violating any of the provisions of section 1969 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than five days nor more than one hundred days, or by both fine and imprisonment, in the discretion of the court. Nothing in this act shall be construed to apply to any sheriff, constable, police, or other peace officer, whose duty it is to serve process or make arrests. Justices of the peace shall have concurrent jurisdiction to try any person or persons charged with violating any of the provisions of this act.

§ 1971. Any person who shall willfully wear the badge or button of the Grand Army of the Republic, or who shall use or wear the same to obtain aid or assistance thereby within this state, unless he shall be entitled to use or wear the same under the rules and regulations of the department of Oregon Grand Army of the Republic, shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for a term not to exceed thirty days in the county jail, or a fine not to exceed twenty dollars, or by both such fine or imprisonment.

Courts of justices of the peace shall have jurisdiction of the offense defined and made punishable by section 1 of this act.

In force from date of approval.

CHAPTER IX.

OF CRIMES AGAINST PUBLIC CONVENIENCE

- § 1972. Obstructing public highway.
- § 1973. Throwing ballast into navigable stream.
- § 1974. Destroying, injuring, or removing buoys.
- § 1975. Refusal or discrimination by master of tug-boat.
- § 1976. Tearing down posted notices.
- § 1977. Defacing inscription on corner or bearing tree.

Tab 25

CHAPTER 377

AN ACT

[H. B. 402]

Prohibiting the manufacture, sale, possession, carrying, or use of any blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger or stiletto, and regulating the carrying and sale of certain firearms, and defining the duties of certain executive officers, and providing penalties for violation of the provisions of this Act.

Be It Enacted by the People of the State of Oregon:

Section 1. No person shall carry in any city, town or municipal corporation of this State any pistol, revolver or other firearm concealed upon his or her person, or of a size which may be concealed upon his or her person, without a license or permit therefor, issued to him or her by a chief of police or sheriff of such city, town or municipal corporation, or in such manner as may be prescribed by ordinance of such city, town or municipal corporation. This section, however, shall not apply to sheriffs and their deputies, constables, marshals, police officers or any other duly appointed peace officers, nor to any person or persons summoned by such officers to assist in making arrest or preserving the peace while said person or persons are engaged in assisting such officers; nor to duly authorized military organizations when parading, nor to members thereof when going to and from places of meeting of their respective organizations.

Section 2. Any person who carries or possesses an instrument or weapon commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, or who carries a dirk or a dagger, or stiletto is guilty of a misdemeanor.

Section 3. Any person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers or gives or disposes of any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag or metal knuckles, to any person, is guilty of a misdemeanor.

Section 3-A. Any person who violates the provisions of Section 1, Section 2 or Section 3 of this Act, shall be fined in a sum no greater than \$100.00, or be imprisoned in the county jail for a term no longer than three months, or by both such fine and imprisonment.

Section 4. Any person who violates the provisions of Section 1, Section 2 or Section 3 of this Act, who theretofore has once been convicted of a violation of any of said sections, is guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in a county jail or reformatory for not less than thirty days nor for more than one year.

Section 4-A. Any person who violates the provisions of Section 1, Section 2 or Section 3 of this Act, who theretofore has more than once been convicted of a violation of any of said sections, is guilty of a felony, and shall be punished by imprisonment in the State prison for a term not exceeding three years.

Section 4-B. Any person who violates any of the provisions of Section 1, Section 2 or Section 3 of this Act, who theretofore has been convicted of a felony, upon conviction thereof shall be imprisoned in the penitentiary of this State for a period not exceeding five years.

Section 4-C. For the purposes of this Act any pistol, revolver or other firearm of a size which may be concealed upon his or her person shall be deemed a dangerous weapon.

Section 4-D. For the purpose of this Act any blackjack, slungshot, billy, sandbag, metal knuckles, dirk, dagger, stiletto, or knife of a blade longer than three and one-half inches when carried concealed upon the person, shall be deemed a dangerous weapon.

Section 5. Every person in the business of selling, leasing or otherwise transferring a pistol, revolver or other firearm of a size which may be concealed upon the person, whether such seller is a retail dealer, pawnbroker or otherwise, shall obtain a legal register (as per Section 6) from the State Printer, at a cost of \$3.00 per 100 leaves in duplicate, in which shall be entered at the time of sale the date of sale, name of maker, number (if any), caliber, name of purchaser, permanent resident, temporary residence, age, occupation, height, color of skin, color of eyes, color of hair and signature of purchaser. (The purchaser is required to sign his name in the aforesaid register in the space provided for the same.) Any person signing a fictitious name or address shall be guilty of a misdemeanor. Any person who shall fail to keep a register and to enter therein the facts required by this section shall be guilty of a misdemeanor. Such register shall be open at all reasonable hours for the inspection of any peace officer. This section shall not apply to wholesale dealers in their business intercourse with the retail dealer, nor to the wholesale or retail dealer in the regular or ordinary transportation of firearms as a merchandise by mail, express or other mode of shipment, to points outside of the city, town or municipal corporation wherein they are situated. Any person who violates the provisions of this section is guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than \$100.00 nor more than \$500.00 or shall be imprisoned in the county jail or reformatory for not less than thirty days nor

Section 7. Any person who attempts to use, or who with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any loaded pistol, revolver or other firearm, or any instrument or weapon of the kind commonly known as a blackjack, slung-shot, billy, sandclub, sandbag, metal knuckles, bomb or bomb-shell, or any other dangerous or deadly weapon or instrument, is guilty of a felony. The carrying or possession of any of the weapons specified in this section by any person while committing, or attempting or threatening to commit a felony, or a breach of the peace, or any act of violence against the person or property of another, shall be presumptive evidence of carrying or possessing such weapon with intent to use the same in violation of this section.

Any person who violates the provisions of this section shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than \$50.00 nor more than \$500.00, or by imprisonment in the county jail for not less than one month nor more than six months, or by imprisonment in the penitentiary for not exceeding five years.

Section 8. Whenever any person shall be arrested and it shall be discovered that such person possesses or carries or has possessed or carried upon his person any loaded pistol, revolver or other firearm, or any weapon named or enumerated in Section 7 of this Act, in violation of any of the sections of this Act, it shall be the duty of the person making the arrest to forthwith lay an information for a violation of said section or sections against the person arrested before the nearest or most accessible magistrate having jurisdiction of the offense, and such magistrate must entertain and examine such information and act thereon in the manner prescribed by law.

Section 8-A. A justice court has concurrent jurisdiction with the circuit court of any offense defined herein where the penalty does not exceed a fine of \$500.00 or imprisonment in

the county jail for not more than six months, or both such fine and imprisonment.

Section 9. It shall be lawful for the sheriff of any county, chief of police, city or town marshal, or other head of the police department of any city, town or other municipal corporation of this State, upon proof before him that the person applying therefor is of good moral character, and that proper cause exists for the issuance thereof, to issue to such person a license for one year, to have and carry concealed a pistol, revolver or other firearm; *provided, however,* that no such license shall be issued to any person under the age of twenty-one years.

The person obtaining a permit to carry a concealed pistol or revolver shall pay to the officer issuing such permit the sum of One Dollar. Said license for carrying a concealed pistol or revolver is revocable at any time and must be immediately surrendered on demand. The license while in force entitles the holder to carry the said arm in any county in the State of Oregon.

Section 10. It shall be unlawful for any person, firm or corporation to sell, offer for sale, give or dispose of any pistol, revolver or other firearm of a size which may be concealed upon the person, to any minor under the age of twenty-one years. A violation of this section is a misdemeanor and punishable by imprisonment in the county jail for a period not exceeding six months, or by a fine not exceeding Five Hundred Dollars, or both such fine and imprisonment.

Section 11. Any person not a citizen of the United States of America, who shall be convicted of carrying a deadly weapon, as described in Sections 1, 2 and 7 of this Act, shall be guilty of a felony and on conviction thereof shall be punished by imprisonment in the State prison for a period not exceeding five years.

Approved by the Governor February 21, 1917.

Filed in the office of the Secretary of State February 21, 1917.

CHAPTER 378

AN ACT

[H. B. 406]

To authorize the State Land Board to indemnify the C. A. Smith Timber Company, estate of George Baldwin and the Sligh Furniture Company, for land purchased by them from the State of Oregon to which land title of the State proved to be invalid.

Be It Enacted by the People of the State of Oregon:

Section 1. That the State Land Board be and it is hereby authorized to sell at current rates to C. A. Smith Timber Company, an Oregon corporation, the right of the State to select indemnity lands under Sections 2275 and 2276, United States Revised Statutes, as amended by the Act of Congress February 28, 1891, in lieu of the north half (N. $\frac{1}{2}$) of section thirty-six (36), township twenty-nine (29) south, range ten (10) west, Willamette meridian, which was sold by the State to the predecessors in interest of the said C. A. Smith Timber Company, and title to which land failed because the land was unsurveyed at the date of such sale by the State, and was settled upon under the homestead laws of the United States prior to its survey; and to sell also at current rates to George Baldwin, C. S. Dickinson, W. J. Fitzmaurice, trustees of the estate of George Baldwin, deceased, the right of the State to select indemnity lands under said United States Statutes in lieu of section thirty-six (36), township four (4) south, range six (6) east, Willamette meridian, and the north half (N. $\frac{1}{2}$) section sixteen (16), township twenty-five (25) south, range eight (8) west, Willamette meridian, which was sold by the State to the predecessors in interest of said trustees, and title to which land failed because the land was unsurveyed at the date of such sale by the State and was reserved by the United States and settled upon under the homestead laws of the United States prior to its survey; and to sell to the Sligh Furniture Company the right of the State to select indemnity lands under the same United States Statutes in lieu of the southeast quarter (S.E. $\frac{1}{4}$) and the south half (S. $\frac{1}{2}$) of the northeast quarter (N.E. $\frac{1}{4}$) and the northwest quarter (N.W. $\frac{1}{4}$) of the northwest quarter (N.W. $\frac{1}{4}$) of section sixteen (16), township three (3) south, range six (6) east, Willamette meridian, which was sold by the State to the predecessors in interest of said Sligh Furniture Company, and title to which land failed because the said land was unsurveyed at the date of such sale by the State and was reserved by the United States prior to its survey.

Section 2. That the State Land Board be and it is hereby authorized to credit upon the purchase price to be paid by the

said C. A. Smith Timber Company, the said trustees of George Baldwin, deceased, and the said Sligh Furniture Company under this Act the prices or amounts which they paid for said lands.

Approved by the Governor February 21, 1917.
Filed in the office of the Secretary of State February 21, 1917.

CHAPTER 379

AN ACT

[H. B. 407]

To provide for the payment of premiums, awarded by the directors of the Interstate Fair Association, to exhibitors of beef stock, and to appropriate money therefor.

Be It Enacted by the People of the State of Oregon:

Section 1. There is hereby appropriated out of the money in the General Fund in the State Treasury, not otherwise appropriated for the two years 1917 and 1918, for the payment of premiums to be awarded at the Interstate Fair to be held during the years 1917 and 1918 at Prineville, Oregon, the sum of \$500.00; the said amounts to be paid over during the respective years 1917 and 1918 to the president of the board of directors of the Interstate Fair Association, who before receiving either of said sums shall execute a bond in double the amount to the State of Oregon, and conditioned that said money shall be used only in the payment of premiums awarded by the board of directors of said Interstate Fair Association to exhibitors of beef cattle for exhibits of breeds of beef stock, and further that no part of said sum shall be offered or awarded as a premium or premiums for trials of speed.

Approved by the Governor February 21, 1917.
Filed in the office of the Secretary of State February 21, 1917.

CHAPTER 380

AN ACT

[H. B. 428]

To fix the compensation of the county commissioners of Lane County, Oregon, and to amend Section 1 of Chapter 23 of the General Laws of Oregon 1915.

Be It Enacted by the People of the State of Oregon:

Section 1. That Section 1 of Chapter 23 of the Laws of Oregon, 1915, be and the same is hereby amended to read as follows:

Sec. 1. The county commissioners of Lane County, Oregon, shall receive as compensation for their services the sum of Four Dollars (\$4.00) per day and actual expenses for each day actually employed in the transaction of county business and said commissioners shall not receive any other compensation, fees, expenses or emoluments in addition to the said sum of Four Dollars (\$4.00) per day and expenses as above provided.

Approved by the Governor February 21, 1917.

Filed in the office of the Secretary of State February 21, 1917.

CHAPTER 381

AN ACT

[H. B. 435]

To amend Section 1126 of Lord's Oregon Laws.

Be It Enacted by the People of the State of Oregon:

Section 1. That Section 1126 of Lord's Oregon Laws be and the same is hereby amended to read as follows:

Sec. 1126. In all such counties the county court is hereby authorized to contract with any law library association or corporation owning and maintaining a law library in the said county at or convenient to the courthouse, for the use of said library by the judges of the circuit and county courts, county commissioners, the district attorney, and all attorneys at law duly admitted to practice law in the State of Oregon, and shall pay therefor all library fees collected pursuant to the foregoing section to the said library association or corporation for such use of the said library.

Approved by the Governor February 21, 1917.

Filed in the office of the Secretary of State February 21, 1917.

CHAPTER 382

AN ACT

[H. B. 443]

Amending Section 4 of Chapter 180 of the General Laws of Oregon for the year 1915; prescribing the time and place of holding the term of court in the Fourteenth Judicial District of Oregon.

Be It Enacted by the People of the State of Oregon:

Section 1. That Section 4 of Chapter 180 of the General Laws of Oregon for the year 1915, be and the same is hereby amended to read as follows:

Sec. 4. The terms of the circuit court of the Fourteenth Judicial District shall be held at the county seat of Lake County as follows: During the year 1917, on the first Monday in March, on the third Monday in May, and first Monday in November; and, thereafter, on the third Monday in May and the first Monday in November of each year.

Approved by the Governor February 21, 1917.

Filed in the office of the Secretary of State February 21, 1917.

CHAPTER 383

AN ACT

[H. B. 454]

To authorize and permit the teaching of military tactics and training in the high schools of the State of Oregon, and to provide assistance therefor, and to regulate the same.

Be It Enacted by the People of the State of Oregon:

Section 1. It shall be lawful for any high school district, in the State of Oregon, to establish and maintain as a part of its course of instruction, military tactics and training, subject, however, to such direction, supervision and inspection as the Governor of the State of Oregon may order and direct.

Section 2. The efficiency and accomplishment of such military tactics and training shall be a subject for suitable credit on the same basis of all studies, the amount of such credit to be determined by the State Board of Education.

Section 3. Any high school district of the State of Oregon shall be entitled to establish and institute such military tactics and training upon the action of its school board, by written request made to the Governor of the State of Oregon, showing that twenty or more such boys of such high school district have made application to form a cadet squad therein; and further, to satisfy the Governor that it has a suitable person secured, who is competent to teach and instruct any such military tactics and training, and that the board will cause to be set apart, during each school week, not less than three hours to be devoted by such squad to the study and drill of such military tactics and training, and that the said high school district will continue to employ and retain a competent instructor of such military tactics and training for not less than eight months during each year, at the expense alone of such high school district, and will supply and so maintain a suitable place for such instruction, during said period of time.

Section 4. That, should the Governor approve the institution and continuing of such military tactics and training, within

Tab 26

current in all payments by all persons, as well in their private as in their politic or corporate capacity :

SECT. 2. *Be it enacted by the representatives of the free-men of the commonwealth of Pennsylvania in general assembly met, and by the authority of the same,* That all the bills of credit declared to be legal tender by the said first recited act, and also the bills of credit emitted, and to be emitted, by virtue of the said last recited act, shall be legal tender, not only to those persons and creditors therein mentioned, but also to all bodies politic and corporate; which said bodies shall be deemed and taken to be subject, in all respects, to all the fines and forfeitures in the said acts mentioned, which the persons or creditors therein named are or ought to be subject to, for any offence committed against the above recited acts, as fully and effectually, to all intents and purposes, as if the said bodies politic or corporate had been expressly named in the said act.

1777.
The first Year
of the Com-
monwealth.

All bills of
credit is-
ued by the
"25,000 act
to be legal
tender to
bodies po-
litic, &c.

JOHN BAYARD, SPEAKER.

*Enacted into a law the 13th Day of June, 1777. }
JOHN MORRIS, junior, clerk of the general assembly. }*

CHAPTER XXI.

An ACT, obliging the male white inhabitants of this state to give assurances of allegiance to the same, and for other purposes therein mentioned.

SECTION I. WHEREAS by the separation of Preamble. **W** the thirteen united states from the government of the crown and parliament of Great Britain (who, by their acts of oppression and cruelty, as set forth in the declaration of independence by congress, bearing date the fourth day of July, 1776, had rendered such separation, on the part of the said states, absolutely necessary for their own happiness, and the happiness of succeeding generations) the good people of the state of Pennsylvania are become free and independent of the said crown and parliament.

SECT. 2. *And whereas* from sordid and mercenary motives, or other causes inconsistent with the happiness

Inhabitants
to take the
oath, &c. of

1777.

*The first Year
of the Com-
monwealth.**allegiance
before the
first of July.*

piness of a free and independent people, sundry persons have or may yet be induced to withhold their service and allegiance from the commonwealth of Pennsylvania as a free and independent state, as declared by congress: *And whereas* sundry other persons, in their several capacities, have, at the risk of their lives and the hazard of their fortunes, or both, rendered great and eminent services in defence and support of the said independence, and may yet continue to do the same; and as both those sorts of persons remain at this time mixed, and in some measure undistinguished from each other, the disaffected deriving undeserved service from the faithful and well affected: *And whereas* allegiance and protection are reciprocal; and those who will not bear the former, are not nor ought to be entitled to the benefits of the latter: Therefore, *Be it enacted by the representatives of the freemen of the commonwealth of Pennsylvania, in general assembly met, and by the authority of the same,* That all male white inhabitants of this state, (except of the counties of Bedford, Northumberland and Westmoreland) above the age of eighteen years, shall, on or before the first day of July next, take and subscribe the following oath or affirmation before some one of the justices of the peace of the city or county where they shall respectively inhabit; and the inhabitants of the said counties of Bedford, Northumberland and Westmoreland, above the said age, shall, on or before the first day of August next, take and subscribe the said oath or affirmation, before some one of the justices of the said three counties last mentioned, in which they shall respectively inhabit; and the said justice shall give a certificate thereof to every such person; and the said oath or affirmation shall be as followeth, viz.

The oath.

“ *I do swear, or affirm, that I renounce and refuse all allegiance to George the third, king of Great Britain, his heirs and successors; and that I will be faithful and bear true allegiance to the commonwealth of Pennsylvania as a free and independent state; and that I will not at any time do, or cause to be done, any matter or thing that will be prejudicial or injurious to the freedom and independence thereof, as declared by congress; and also that I will discover and make known, to some one justice of peace of the said state, all treasons, or traitorous conspiracies, which I now know or hereafter shall know to be formed against this or any of the united states of America.*”

And

And the form of the said certificate shall be as followeth, viz.

1777.
The first Year
of the Com-
monweal'th.
The certi-
ficate.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the justice or justices of the peace, before whom such oath or affirmation shall be subscribed, shall keep fair registers of the names and surnames of the persons so sworn or affirmed, and the time when, and shall, on or before the first day of October in every year, transmit in writing, under his or their hands and seals, to the office of recorder of deeds for the said city or county, a true list of the names and surnames of those who, within the same year, have so sworn or affirmed before them respectively; and the said justice or justices shall have and receive therefor, and for the said certificate, the sum of one shilling, and no more, for every person so sworn or affirmed; and the said justice or justices shall lay their accounts before the county commissioners, or any two of them, from time to time, to be examined and allowed; and the said commissioners shall draw orders on the county treasurers for such sums as shall be so allowed, which orders the said treasurers are hereby authorised and required to pay out of the state taxes; and the recorders of deeds, in the city and several counties of this state, are hereby enjoined to record the said lists, in books to be prepared for that purpose, and shall be paid for the same, in the same manner as the justices, at the rate of five shillings for every hundred names.

Justices to keep registers of the names and transmit copies to the recorder of deeds, who is to record them.

SECT. 4. *And be it further enacted by the authority aforesaid, That every person above the age aforesaid refusing or neglecting to take and subscribe the said oath or affirmation, shall during the time of such neglect or refusal, be incapable of holding any office or place of trust in this state, serving on juries, suing for any debts, electing or being elected, buying, selling or transferring any lands, tenements or hereditaments, and shall be disarmed by the lieutenant or sublieutenants of the city or counties respectively.*

Incapacities and penal- ties on those who ne- glect or re- fuse to swear or af- firm.

SECT. 5. *And whereas there is a danger of having the Nonjurors seeds travelling,*

1777.

*The first Year
of the Com-
monwealth.**to be taken
up, and the
oath, &c.
tendered, to
be commit-
ted on re-
fusal.**Travellers
from other
states to
take the
oath, &c.**Except de-
legates, &c.**Forgers or
counter-
feitors of
certificates
to be fined
fifty pounds
or whipped.*

seeds of discord and disaffection greatly spread by persons, whose politic principles are not known, removing or travelling from one part of the state, to another, and it is well known that this state is already become (and likely to be more so) an asylum for refugees flying from the just resentment of their fellow citizens in other states: For remedy whereof, *Be it enacted by the authority aforesaid,* That every person above the age aforesaid, who shall travel out of the county or city in which he usually resides, without the certificate aforesaid, may be suspected to be a spy, and to hold principles inimical to the united states, and shall be taken before one of the justices nearest to the place where he shall be apprehended, who shall tender to him the said oath or affirmation; and upon his refusal to take and subscribe the said oath or affirmation, the said justice shall commit him to the common goal of the city or county, there to remain without bail or mainprise until he shall take and subscribe the said oath or affirmation, or produce a certificate that he hath already done so.

SECT. 6. *And be it further enacted by the authority aforesaid,* That all persons coming from any of the other united states into this state are hereby required to apply to one of the nearest justices after he enters this state, and take and subscribe the said oath or affirmation, upon the penalty of being dealt with as in the case of persons travelling or removing out of the city or county in which they usually reside, unless he can produce a certificate that he hath taken an oath or affirmation of the like nature in the state from whence he came.

SECT. 7. *Provided always nevertheless,* That delegates in congress, prisoners of war, officer and soldiers in the continental army, merchants and mariners trading in the ports of this state, from foreign powers in amity with the united states, and not becoming resident, are declared not to be within the intent and meaning of this act.

SECT. 8. *And be it further enacted,* That if any person shall forge such certificate, as by this act is to be made out and given by any one of the justices of the peace of this state; or shall cause or procure others to forge or counterfeit the name and seal of the justice of the peace to such certificate, or shall, by erasing or otherwise taking out, or covering or pasting over, a man's name that was wrote in a true and genuine certificate, alter the same so as to serve his

his own or any other man's purposes; or shall produce and make use of any such certificate, knowing it to be forged or altered; every such person and persons so offending, and being thereof legally convicted before any court of general quarter sessions of the peace of the city or county where such offence shall be committed, shall be fined the sum of fifty pounds, and be committed to jail, until he pays the fine and costs of prosecution: And if he shall not, within the space of thirty days, satisfy the judgment of the court, he shall be whipped with any number of lashes not exceeding thirty nine, on his bare back, well laid on.

1777.
 The first Year
 of the Com-
 monwealth.

JOHN BAYARD, SPEAKER.

*Enacted into a law the 13th Day of June, 1777. }
 JOHN MORRIS, junior, clerk of the general assembly. }*

CHAPTER XXII.

A supplement to the act, intitled, "An Act for amending the several acts for electing members of assembly."

SECTION I. WHEREAS by one of the said acts, Preamble, intitled, "An Act to ascertain the number of members of assembly, and to regulate the elections," passed in the year of our Lord one thousand seven hundred and five, it is enacted, "That the sheriff, or some other of the persons appointed judges of the election of members of assembly, shall open the paper of an illiterate elector containing the names of those persons for whom he votes, read the same names, and ask such elector whether these are the persons for whom he votes."

SECT. 2. And whereas it is highly dangerous to the freedom of elections in this commonwealth that the sheriff or judge of sheriffs and other persons appointed judges of elections should continue to be invested with the power of searching and discovering for whom any elector shall vote to represent him: Be it therefore enacted, and it is hereby enacted by the representatives of the freemen of the commonwealth of Pennsylvania in general assembly met, and by the authority of the same, That from and after the passing of this act, no sheriff, coroner, in-

Tab 27

be lawful for the commissioners and assessors of said county, or a majority of them, to assess and levy so much money as the said trustees or any four of them shall judge necessary, for paying the remainder aforesaid, of purchasing the land, and finishing the said court house and prison, and they are hereby required so to do.

1780.

The fourth Year
of the Common-
wealth.

JOHN BAYARD, SPEAKER.

*Enacted into a law at Philadelphia, on Monday, the
20th day of March, A. D. 1780.*
THOMAS PAINE, clerk of the general assembly.

C H A P T E R CLXVII.

*An ACT for the regulation of the militia of the common-
wealth of Pennsylvania.*

SECTION 1. WHEREAS a militia law, founded upon just and equitable principles, hath been ever regarded as the best security of liberty, and the most effectual means of drawing forth and exerting the natural strength of a state.

SECT. 2. *And whereas* a well regulated militia is the only safe and constitutional method of defending a free state, as the necessity of keeping up a standing army, especially in times of peace, is thereby superseded.

SECT. 3. *And whereas* the militia law of this commonwealth, enacted by the general assembly the seventeenth day of March, one thousand seven hundred and seventy seven, from a change of circumstances and other causes, hath become insufficient to answer the purposes aforesaid, which renders it highly necessary that a new law should be enacted. Therefore,

SECT. 4. *Be it enacted, and it is hereby enacted by the President in council to appoint a lieutenant in each county.* *representatives of the freemen of the commonwealth of Pennsylvania, in general assembly met, and by the authority of the same,* That the president in council, or, in his absence, the vice president in council, of this commonwealth, shall appoint and commissionate one reputable freeholder in the city of Philadelphia, and one in each county within this state, to serve as lieutenants of the militia for the said city and counties respectively; and also any number of persons not exceeding two for the said city; and in the several counties any number not exceeding the

His EXCELLENCE

1780.

the fourth Year
of the Common-
wealth.

Lieute-
nants to
find secu-
rity.

Lieute-
nants to
procure a
list of all
male white
inhabitants
between
18 and 53
years of age
yearly.

the number of battalions now or to be hereafter formed, to serve as sub lieutenants in the said city and counties respectively; who, besides the powers which are given him and them by this act, shall have the title and rank which the president in council, or, in his absence the vice president in council, shall confer; which said lieutenant, or in his absence or incapacity two or more sub lieutenants, shall have full power and authority to do and perform all and singular the duties required of the said lieutenants by this act.

SECT. 5. *And be it enacted by the authority aforesaid,* That the lieutenants and sub lieutenants, before they enter upon the execution of their offices respectively, shall give bond to the treasurer of the county in which they severally reside, in the name of the president or commander in chief of the state, with one sufficient surety, in the sum of twenty thousand pounds, conditioned for the faithful accounting for and paying of all the monies which shall come to their hands by virtue of this act, when thereunto lawfully required. And that the public bonds given or to be given by the treasurer of the state or county treasurers, for the due discharge of their respective offices, shall be deemed to extend to the faithful performance of the trust hereby committed to them respectively.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the said lieutenant or sub lieutenants (one in every year) shall issue his or their warrants to the captain or commanding officer for the time being of each company of the several battalions in the said city and counties respectively, or to some other suitable person, commanding him, in the name of the commonwealth, to deliver to him or them, the said lieutenant or sub lieutenants, within ten days from and after the date of the said warrants, (unless the lieutenant or sub lieutenants shall judge a longer time to be necessary, which he or they are hereby empowered to grant) on oath or affirmation which any of them is hereby empowered to administer, a true and exact list of the names and surnames of each and every male white person inhabiting or residing within his township, borough, ward or district, between the ages of eighteen and fifty three; (delegates in congress, members of the supreme executive council, members of the general assembly, judges of the supreme court, attorney general for the state, the judge of the admiralty, treasurer of the state, sheriffs, goalers and keepers of work-houses, ministers of the gospel of every denomination, professors and teachers in the university, post-masters, and post-riders belonging to the general post-office, menial servants

of

of ambassadors or ministers and consuls from foreign courts, and of delegates in congress from other states, registered with the secretary of the supreme executive council of this state, and servants purchased *bona fide* and for a valuable consideration, only excepted.)

1780.

The fourth Year
of the Common-
wealth.

SECT. 7. *And be it further enacted by the authority aforesaid,* That the lieutenant and sub lieutenants aforesaid, shall, within five days after they shall receive the lists aforesaid, if they see cause, alter the present divisions of the city and counties respectively, and divide them into new districts, each district to contain not less than four hundred and forty nor more than one thousand, officers and privates included, at the discretion of the said lieutenants and sub lieutenants; and then sub divide the said districts into eight parts, as nearly equal as may be, paying due regard in each division to the convenience of the inhabitants: Provided always, that two thirds of the lieutenants met for the above purpose agree to such division, and that each person be annexed to the numerical class to which he formerly belonged.

Lieute-
nants to di-
vide and
class the mi-
litia.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the militia of the northern liberties of the city of Philadelphia, the district of Southwark, and the townships of Moyamensing and Passyunk, be and they are hereby united to the city of Philadelphia, to act in conjunction with the militia of the said city, and distinct from the rest of the county of Philadelph'a; that they draw lots for rank in battalion, and be joined in brigade and act in every other matter that respects the militia law, as if they were inhabitants of said city, and to be under the direction of the lieutenant and sub lieutenants of the city.

Northern
Liberties,
&c. to join
the city.

SECT. 9. *And be it further enacted by the authority aforesaid,* That the lieutenant and sub lieutenants of the city of Philadelphia and districts annexed shall, out of the several battalions of the said city and districts annexed, take such a number as will compose eight companies, to form one battalion of artillery, to be officered and arrayed as follows, that is to say, one lieutenant colonel, one major, eight captains, eight captain lieutenants, eight first lieutenants, sixteen second lieutenants; the senior to bear the standard, and the junior to do the duty of conductor; paymaster, adjutant, and quarter master to be taken from the line; one surgeon, one serjeant major, fife major, drum major, eight clerks, thirty two serjeants, forty eight bombardiers, forty gunners, eight drummers, eight fifers, and four hundred matroffes; and both the officers and privates of the said battalion, shall be sub-

Artillery of
the city.

1780.

The fourth Year
of the Common-
wealth.Companies
of artillery
how to
rank.Preamble
concerning
light horse.Lieute-
nants of
each county
to form a
troop or
corps.Light horse
of the city
limited to
fifty pri-
vates.Light horse
if chosen an
officer, to

ject to the same fines and penalties for any omission of duty as the infantry: Provided nevertheless, that the persons composing the artillery heretofore formed may be permitted to continue as a part of the said battalion of artillery; and the officers shall be elected in the same manner as is directed by this act for the election of officers of the infantry.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the several captains of the artillery battalion shall determine their rank by lot, and be numbered from one to eight in numerical order, and be subject to be drawn forth into actual service in rotation by companies, according to their number in rank, number one in rank with the first class of the militia, and so on, until all shall take their tour, or otherwise as the commander in chief of the militia shall direct.

SECT. 11. *And whereas* it is expedient to embody such a number of light horse as will be useful when the militia is called into actual service. Therefore,

SECT. 12. *Be it further enacted by the authority aforesaid,* That each of the lieutenants of the several counties of this state may form a corps of light horse, not to exceed six privates for each battalion of infantry in each county; to be taken distributively out of each, in case volunteers offer; otherwise at large throughout the county; and the light horse shall be officered as light horse usually are, and shall be subject to appear upon muster days, and shall turn out in classes as other militia; and in case any person, who shall be admitted into the said light horse, shall fail of providing himself with a suitable horse, weapons and furniture, such person shall be liable to be called out, and serve in the foot militia.

SECT. 13. *And be it further enacted by the authority aforesaid,* That the troop of light horse in the city of Philadelphia shall be limited to the number of fifty, exclusive of officers; the vacancies thereof to be filled in the manner heretofore practised; and the said troop shall be liable to appear on muster days, and to be called out into service as other militia; and the light horse of this state when in actual service shall be subject to the same rules and regulations as the foot militia, and to like fines and penalties for neglect of meeting on muster days or turning out on their tour when thereunto called; such fines and penalties, to be appropriated as the fines and penalties for like offences in other cases.

SECT. 14. *And be it further enacted by the authority aforesaid,* That if any light horseman shall be elected or appointed

appointed a commissioned officer in any battalion of infantry of his proper city or county, and on notice given him in writing by the lieutenant, shall accept thereof, his place in the said light horse shall be vacated; and any light horseman who shall be absent more than four months from his city or county shall vacate his place in the troop to which he belonged.

1780.

*The fourth Year
of the Common-
wealth.*vacate his
place in the
horse.

SECT. 15. *And be it further enacted by the authority aforesaid,* That the lieutenant or sub lieutenant shall appraise the horse of each person serving as a light horseman immediately before every time of going into actual service, and enter the same in a book; and in case such horse shall be killed or die in actual service or be taken by the enemy, otherwise than by neglect, he shall be paid the value of such appraisement by an order to be drawn by the lieutenant or any two sub lieutenants on the militia fund in the hands of the treasurer for that purpose.

Horses to
be apprais-
ed before
going upon
actual ser-
vice.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the said lieutenants shall give public notice, by advertisements at ten or more of the most public places in the said districts respectively, of the said divisions being made, and appointing a certain day for each district, not less than ten days after the said notice, and requiring the male white inhabitants between the ages aforesaid, residing in the said divisions respectively, to meet at a certain place as near the centre of the said division as may be, and then and there, between the hours of ten in the morning and six in the afternoon of the said day, to elect by ballot two field officers, that is to say, one lieutenant colonel and one major. And the inhabitants of the said subdivisions respectively shall elect by ballot as aforesaid, on the same or some other day, as soon is convenient, one captain, one lieutenant and one ensign; previous to which said election, the said inhabitants shall elect two freeholders to preside as judges thereof; and all and each of these officers respectively shall be such persons as have taken the oath of allegiance and abjuration agreeable to the laws of this state; and each captain shall appoint a suitable person for a clerk in his company; and the said lieutenant or sub lieutenant shall attend and superintend each and every of the said battalion elections, and shall cause the lieutenant colonels so elected in the city and counties respectively to meet together as soon as may be, and cast lots for rank of the battalions; and the rank of the officers in each battalion shall be determined by the lot drawn by their respective lieutenant colonels; and the captains so elected in the subdivisions shall

How com-
manding of-
ficers are to
be elected;how quali-
fied.

1780.

*The fourth Year
of the Commonwealth.**Names of
the persons
chosen to
be sent to
the presi-
dent and
council.**Battalion,
&c. refusing
to choose
commanding
officers,
the lieute-
nant to ap-
point.**How serje-
ants, &c. to
be appoint-
ed.*

shall meet and cast lots for their rank in the battalion to which they belong ; and the rank of the subaltern officers in each company shall be determined by the lot drawn by their respective captains : And the said lieutenants shall, within ten days, or as soon as may be, having regard to their local situation, transmit proper certificates to the president of the supreme executive council of the names of the persons so as aforesaid elected and their rank, both of battalions and companies in the several battalions, in order that commissions may be forthwith granted to them, agreeable to the said certificates ; and elections for officers in the light horse shall be made in like manner as elections for officers in the infantry.

SECT. 17. And be it further enacted by the authority aforesaid, That if any battalion, troop or company, shall neglect or refuse to elect their officers as aforesaid, then and in such case, it shall and may be lawful for the lieutenant, with the advice and consent of two or more of the sub lieutenants of the city of Philadelphia and of such county where such neglect or refusal shall be, to nominate one reputable person to the supreme executive council, in the room of each officer so neglected to be chosen ; and the said council approving thereof shall commission the said person which shall be as effectual, to all intents and purposes, as if the said officers had been elected as before directed ; and the said lieutenant shall, as soon as may be, acquaint the parties so neglecting or refusing with the appointments so as aforesaid made. And the said several and respective officers elected or appointed as aforesaid shall serve respectively as officers of the militia for the space of three years ; at the end of which time the lieutenant of the city and counties respectively, in the manner herein before directed, shall cause a new election to be held in the said city and counties respectively ; but nothing herein contained shall be construed to render any of the former officers incapable of being re-elected.

SECT. 18. And be it further enacted by the authority aforesaid, That the commissioned officers of each company shall appoint three serjeants, three corporals, one drummer and fifer for their respective companies ; and all persons who have heretofore been officers in the militia under the late law, if not re-elected, shall deliver up their arms, accoutrements, drums, fifes and colours, if paid for by the public, to the lieutenant or sub lieutenant of the city or county aforesaid. And the lieutenant of the city of Philadelphia, and the lieutenants of the counties respectively, are hereby authorised to purchase such drums,

drums, fifes and colours, as may be afterwards wanted to supply the companies in the city and counties respectively.

SECT. 19. *And be it further enacted by the authority aforesaid,* That the field officers of each battalion in this state, shall constitute and appoint in their respective battalions, one chaplain, one quarter master, one surgeon, one adjutant, one quarter master serjeant, one serjeant major, one drum and fife major; and the lieutenants and sub lieutenants of the city and counties respectively shall, at their discretion, furnish and procure proper carriages for the battalions or drafts of the militia, when it shall be necessary,

SECT. 20. *And be it further enacted by the authority aforesaid,* That the lieutenant or sub lieutenants of the city and counties respectively, shall pay such wages as shall be necessary to one adjutant, one quarter master serjeant and one drummer and fifer, for every day that the service may require them, out of the monies arising from fines, on the said adjutants, quarter master serjeant, drummer and fifer producing a certificate of the service so performed, from the commanding officer of the said battalion or company,

SECT. 21. *And whereas* the sums allowed by the late militia law for a drummer and fifer have been insufficient, and many officers have been obliged to pay considerably more.

SECT. 22. *Be it therefore enacted by the authority aforesaid,* That the lieutenants shall and hereby are required to pay unto such captains or commanding officers of companies such reasonable sums as they have expended for drummers and fifers, on their producing an account of such costs, properly certified.

SECT. 23. *And be it further enacted by the authority aforesaid,* That the commissioned officers of each company of militia shall nominate and appoint one discreet person, who shall be called the almoner, residing in the district or sub division out of which their company is formed, provided such almoner is above the age of fifty three years, to take proper care of the families of such poor militia men, within their respective districts as are in actual service in their own turn, and to grant them such support as their necessities may require; provided such support do not exceed half the price of daily labour, as the same shall be ascertained as herein after is directed; and the said officers of the company, or any two of them, shall make out a certificate of their nomination and appointment, directed to the

1780.

The fourth Year
of the Common-
wealth.

Chaplain,
quarter
master, sur-
geon, adju-
tant, &c.

Adjutant,
drum and
fife to be
paid.

Preamble
concerning
former
drums and
fifes.

Captains,
&c. reim-
bursed.

Almoner to
provide for
the families
of the poor.

1780.

The fourth Year
of the Commonwealth.

lieutenant of the city or lieutenant or sub lieutenants of the county to which the company belongeth; which certificate shall enable the said almoner thereby appointed, to draw from time to time on the said lieutenant or sub lieutenant, for such sum or sums of money as shall be necessary for the purpose aforesaid; and he shall render an account of the monies by him drawn to the said lieutenants.

Lieute-
nants and
sub lieute-
nants to
render ac-
counts, on
pain of, &c.

SECT. 24. *And be it further enacted by the authority aforesaid,* That every sub lieutenant of the said city and several counties shall, once in every three months, render an account to his proper lieutenant of all monies received by him, and of his expenditures by virtue of this act, and settle and pay to him the balance of the same; and the lieutenant of the said city and each county respectively, shall make out compleat accounts of all the monies received by him and of his expenditures, and return the same to the supreme executive council, once in every six months; and each lieutenant and sub lieutenant is hereby empowered to employ one clerk, the better to compleat the same, and on failure of accounting as aforesaid, each lieutenant and sub lieutenant shall forfeit and pay for every such neglect, the sum of ten thousand pounds, to be applied as other fines are directed to be applied by this act.

Rank and
precedence
of the city
and coun-
ties.

SECT. 25. *And be it further enacted by the authority aforesaid,* That the precedence of the officers of the city of Philadelphia, and of the several counties in this commonwealth, shall be determined as follows; that is to say, when the commissions are of equal rank and date, the officers of the city of Philadelphia and districts annexed shall take rank or precedence of all other officers of equal rank in this state; and next to them the officers of the county of Philadelphia, and so on, according to the seniority of the counties respectively.

Days of ex-
ercise.

SECT. 26. *And be it further enacted by the authority aforesaid,* That the whole of the militia so enrolled as aforesaid, shall be subject to be exercised in companies under their respective officers as followeth; that is to say, in the city of Philadelphia and districts annexed, in companies, on the two last Mondays in the month of April, and in battalion, on the two first Mondays in the month of May; and the first battalion shall muster in battalion, on the third Monday in May; the second battalion on the Tuesday following; the third battalion on the Wednesday, and so on, till the whole number of battalions shall have mustered, according to their numerical rank, on any or every day of the week, (Saturday and Sunday excepted) until the whole number of battalions

battalions shall have mustered in the aforesaid manner, and on the day following, should it not happen to be Saturday or Sunday, the whole number of battalions belonging to the city of Philadelphia and districts annexed, shall meet in brigade, and the militia of the city of Philadelphia and districts annexed shall meet to exercise in companies the two last Mondays in the month of August, and in battalion, on the two first Mondays in the month of September; and the first battalion, on the second Monday in the month of October, the second battalion on the Tuesday following, and the third battalion on the Wednesday; and so on until the whole number of battalions, according to their rank, have mustered, except as before excepted. And then on the day following (with the foregoing exceptions,) the whole battalions shall meet in brigade. And in each and every county in the following manner, that is to say, in companies the two last Mondays in the month of April, and the two first Mondays in the month of May; and shall begin their mustering in battalion in the following manner, to wit, the first battalion shall meet in battalion on the third Monday of the said month, the second battalion on the Tuesday following, the third battalion on the Wednesday, and so on, according to the rank of battalions in the aforesaid manner, mustering each day in the week (Saturday and Sunday excepted) until the whole number of battalions belonging to each county shall have mustered in this manner; and in companies the two first Mondays in the month of October, and the two first Mondays in the month of November; and the first battalion in battalion on the third Monday in the month of November, the second battalion on the Tuesday following, the third battalion on the Wednesday, and in this manner until the whole number of battalions belonging to each county, according to their ranks severally, shall have mustered on any day it may happen (except on a Saturday or Sunday as before excepted). And on each of the said days every militia man so enrolled shall duly attend with his arms and accoutrements in good order; and a serjeant or the clerk of each company shall at the end of one hour after the time appointed for the meeting of the company or battalion, call over the muster roll of the company, noting those who are absent; and on that day shall make return in writing to the captain or commanding officer then present of such absentees; and all persons so absent at the time of calling over the roll, or who shall depart from the parade before duly discharged, shall be liable to the fines hereafter mentioned.

SECT.

1780.
 The fourth Year
 of the Common-
 wealth.

Absentees
 to be noted
 and fined.

1780.

The fourth Year
of the Common-
wealth.Fine for ab-
sence on
days of ex-
ercise.Fines to be
levied by
warrant of
lieutenant,
and kept as
a fund.

SECT. 27. *And be it further enacted by the authority
aforesaid, That if any commissioned officer shall neglect
or refuse to attend on any of the days appointed for ex-
ercise in companies as aforesaid, (unless prevented by
sickness or some other unavoidable accident) such com-
missioned officer shall forfeit and pay the price of three
days labour; and any non commissioned officer or private,
and all enrolled persons, so refusing or neglecting (except
as before excepted) shall forfeit and pay the price of one
and a half day's labour; and on a brigade or battalion day
a field officer shall forfeit and pay the price of six days
labour, and a commissioned officer under that rank the
price of four days labour, and a non commissioned officer
or private, and all enrolled persons refusing to meet and
exercise, the price of two days labour, (excepting as be-
fore excepted) the said prices to be ascertained as here-
after directed: The names and surnames of all which
persons, so incurring the said fines and penalties, (except
such as may have paid the same into the hands of the cap-
tain or commanding officer of the company,) shall be
duly returned by the captain or commanding officer of
each company, under his hand, together with such fine
as he has received, to the lieutenant colonels or com-
manding officers of the battalions respectively on each
field day; which said lieutenant colonel or commanding
officer of the battalion shall, on receipt of such fines and
returns, forthwith transmit the same to the lieutenant
or one of the sub lieutenants of the county; and also a
duplicate thereof to the treasurer of the county; and
the said lieutenant or sub lieutenant shall, immediately after
the said returns are respectively made to him, cause the
same to be recovered by issuing his warrant to the sheriff,
constable or other fit person that he can procure, to levy
the aforesaid fines by distress and sale of the offender's
goods and chattels, together with five per cent. for col-
lecting where no distress is necessary to be made, and
seven and a half per cent. in case of distress and sale, in
full for his trouble for levying, selling and collecting
(unless the offender shew cause of absence by sickness or
otherwise, and can produce a certificate from the cap-
tain or commanding officer of the company, who may
give such certificate, if he verily believes the offender
ought to be excused from paying the said fines;) but if
no such goods and chattels can be found, then to seize
and take the body of such offender, and commit him to
the common jail or some other place of close confine-
ment, for the space of ten days for each fine, unless he
sooner*

sooner pay the same. And the lieutenant shall, twice in every year, transmit the said fines, when collected, into the hands of the county treasurer, who shall pay the same into the hands of the state treasurer, to be kept as a fund, subject to such draughts as may be made upon him from time to time by the lieutenant or at least two sub lieutenants for the use of the militia of that county. But if the funds of any county, by the generality of their turning out should be insufficient to answer the draughts for the support of persons serving or suffering in the militia, in that case the executive council shall be impowered to draw on the funds of such other counties whose surplus may be most enabled to bear it.

SECT. 28. *And be it further enacted by the authority aforesaid,* That the treasurer of each county, and the state treasurer, shall keep all the monies arising from fines by the militia law, separate from all other monies, and keep separate books to enter the same, for the purposes herein after mentioned.

SECT. 29. *And be it further enacted by the authority aforesaid,* That whenever it may be necessary to call into actual service any part of the militia, in case of a rebellion or invasion of this or any of the adjoining states, then it shall and may be lawful for the president or vice president in council to order into actual service such part of the militia, by classes, of the city of Philadelphia, or of any county or counties, as the exigency may require. Provided, that the part so called doth not exceed four classes of the militia of the county or counties so called out: *And provided also,* That such counties shall not be again called upon to furnish any more militia until an equal number of classes of the militia of the other counties respectively be first called; unless the danger of an invasion from Indians or others should make it necessary to keep in reserve the militia of such county or counties for their own immediate defence.

SECT. 30. And to the end that the militia when called by classes shall be properly officered, the following order is hereby directed and enjoined; that is to say,

For the first draft. The captain of the first company, the lieutenant of the second, and the ensign of the fourth.

Second draft. The captain of the second company, the lieutenant of the first, and the ensign of the third.

Third draft. The captain of the third company, the lieutenant of the fourth, and the ensign of the second.

Fourth draft. The fourth captain, the lieutenant of third company, and the ensign of the first.

1780.
The fourth Year
of the Common-
wealth.

Counties
where fines
are few, to
be relieved.

Fines to be
kept sepa-
rate.

President,
&c. may
call out mi-
litia.

Proviso.

The order
in which
they are to
turn out.

HIS EXCELLENCE

1780.

The fourth Year
of the Common-
wealth.

Time they
shall serve,
&c.

Pay of a
private to
be equal to
a day's la-
bour.

Fifth draft. The fifth captain, the lieutenant of the sixth company, and the ensign of the eighth.

Sixth draft. The sixth captain, the lieutenant of the fifth company, and the ensign of the seventh.

Seventh draft. The captain of the seventh company, the lieutenant of the eighth, and the ensign of the sixth.

Eighth draft. The captain of the eighth company, the lieutenant of the seventh, and the ensign of the fifth.

Non commissioned officers to take tour of duty with the commissioned officers.

And the field officers of battalions in the city of Philadelphia, and in each county of this state, shall be divided in like manner, and each class to be considered as a detachment from different corps, liable to serve two months and no longer, and to be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved; but nothing herein contained shall prevent the supreme executive council from employing or calling out part of any class or any company or companies, battalion or battalions, without respect to this rule, whenever the exigency is too sudden to allow the assembling of the scattered militia which compose the particular classes; and the service of the person so called out shall be accounted as part of their tour of duty; and the militia in actual service shall receive the same pay and rations as continental troops; their pay to commence two days before marching, and receive pay and rations at the rate of fifteen miles per day on their return home.

SECT. 31. *And whereas* the militia when called into actual service, are not entitled to any bounty, such as cloathing, at the public expence; and therefore their reward is not equal to that of the regular troops:

SECT. 32. *Be it therefore enacted by the authority aforesaid,* That when the militia or any detachment thereof are called out on duty, each non commissioned officer and private shall receive such a sum as, including the continental pay, will amount to the price of common labour for the time of service given, to be drawn from the treasurer by the paymasters of the militia from time to time appointed; and the officers, whose duty it may be, are hereby required to make out separate pay rolls of the said bounty; and that all commissioned officers shall, over and above the pay established from time to time by the honorable congress, receive the same bounty which a private shall receive.

SECT. 33. *And be it further enacted by the authority aforesaid,*

aforsaid, That at each quarter sessions of the peace of the city and in the several counties throughout the state the price of common labour, then current in the said city and counties respectively, shall be enquired into and ascertained; and the justices, or a majority of them, attending the said courts are hereby required to fix and determine what is the average price of common labour at that time by the day; which price, so determined by the said justices, shall be considered as a rate by which all fines shall be determined for neglects or omissions of militia duty during and from that time to the end of the next quarter sessions of the peace; and the said justices are hereby required to make out a certificate of the price so determined for the lieutenants of the said city and counties respectively, under their hands and seals.

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price of day
labour to be
fixed at the
quarter ses-
sions, and
become the
rule for
fines.

See chap-
ter 181.

SECT. 34. *And be it further enacted by the authority aforsaid*, That when any class or classes of the militia shall be called to perform any tour of duty, the lieutenant or sub lieutenant shall cause each and every person so called, to be notified of such call at least three days before the time of assembling the said militia, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other fit person employed for that purpose by the commanding officer of said company; and any person refusing or neglecting to perform such tour of duty shall pay for each and every day he shall so neglect or refuse, the price of one day's labour; and in case he shall be possessed of such estate as is herein after mentioned, shall pay such additional sum as by this act is further directed.

Written
notice to be
given when
the militia
are called.

Fine for not
serving.

SECT. 35. *And be it further enacted by the authority aforsaid*, That the master or mistress of any apprentice, and the father or mother of any minor, liable to serve in the militia, who shall refuse or neglect to attend as aforesaid, such minor being in the service of his father or mother, master or mistress, they shall be respectively accountable for the fine or fines so incurred by such minor or apprentice.

Fathers,
masters, &c.
to be ac-
countable
for the
fines of
minors and
appren-
tices.

SECT. 36. *And be it further enacted by the authority aforsaid*, That no mariner or seaman shall be subject to the fines and penalties of this act, for not performing militia duties, if such mariner or seaman is in actual employ by being shipped for a voyage, or absent at sea.

Mariners
excepted.

SECT. 37. *And be it further enacted by the authority aforsaid*, That the militia of this state, whilst in the actual service of the united states, shall be subject to the same rules and regulations as the federal army: *Provided*, that

Militia,
while in
the service
of the unit-
ed states, to

upon

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wealth.be subject
to the rules
of the armyFines, how
to be recov-
ered.

upon any transgression or offence of a militia man, whether officer or private, against the rules and regulations of the fœderal army, the cause shall be tried and determined by a court martial of the militia of this state; and that it shall be in the power of the president of the supreme executive council, or in case of his absence, of the commanding officer of the militia, to mitigate, suspend or pardon, any punishment to which any militia man may be sentenced by a general court martial.

SECT. 38. *And be it further enacted by the authority aforesaid,* That if any delinquent shall neglect or refuse to pay the fine for an omission of performing his tour of militia duty, within five days after the appeal herein after mentioned, it shall and may be lawful for the lieutenant or any sub lieutenant to issue his warrant to the sheriff, or any constable or other fit person that he can procure, to levy the said fine, by distress and sale of the offender's goods and chattels, lands and tenements, together with seven and a half per cent. and the charges of keeping the distress, in full for his trouble for levying, selling and collecting; which said distress and sale shall be made according to the directions of the law for levying and selling goods and chattels distrained for rent; but if no such goods and chattels, lands and tenements can be found, then to seize and take the body of such offender, and commit him to the common jail or some other place of close confinement, for the space of four months, unless he sooner pays the fine; and no process shall issue to stay the execution of such warrant, unless in case of the seizure of real estates.

Proviso.

SECT. 39. *Provided always,* That if any person shall think himself aggrieved in the seizure of his lands and tenements, he may enter an appeal before the justices to the next court of common pleas for said county, and on the party's giving sufficient security, within six days next after any lands and tenements shall be seized or distrained as aforesaid, to prosecute such appeal with effect, the justices shall receive the same and stay further process; and the said justices shall return every such appeal on the first day of the next term, and the court shall direct a trial by a jury of the county as in cases of debt, whose verdict shall be final and conclusive; and except in extraordinary cases, of which the court shall judge, all such appeals shall be tried at the term to which such returns shall be made:

Proviso.

SECT. 40. *Provided also,* That in case real estate be sold as aforesaid, such sale shall be made by the sheriff of the

the county, who shall make a sufficient deed for the same, and put the purchaser into possession thereof.

SECT. 41. *And be it further enacted by the authority aforesaid,* That no militia man shall withdraw himself from the company to which he belongs, under the penalty of the value of twenty days labour, to be sued for and recovered by the commanding officer of the company from which he shall so withdraw himself, before any justice of the peace, by action of debt: Provided nevertheless, that persons removing out of the bounds of one battalion or company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge, certifying the class to which he belongs, and whether he hath served his tour of duty or not, which certificate the said militia man shall produce to the captain or commanding officer of the company in whose bounds he next settles, within ten days after his settlement, under penalty of the value of thirty days labour, to be recovered and applied as aforesaid; and the captain or commanding officer is hereby required to in-roll him in the class specified in the said certificate.

SECT. 42. *And be it enacted by the authority aforesaid,* That in all cases of doubt respecting the age of any person inrolled or intended to be inrolled in the militia, the party questioned shall prove his age, to the satisfaction of the officers of the company within the bounds of which he may reside, or a majority of them.

SECT. 43. *And whereas* it is just and reasonable that those who have considerable property, should pay for the protection of that property, when they do not give their service in facing danger in the field, or bearing any of the necessary fatigues attending a military life; and to compel all persons to give their personal service or some equivalent therefor, in some proportion to such property:

SECT. 44. *Be it therefore enacted by the authority aforesaid,* That all and every person and persons who are in and by this act required to perform a tour of duty, and have an estate, shall pay, for neglecting to perform the said tour of duty, in addition to the fine of the price of one day's labour as aforesaid, the sum of fifteen shillings in every hundred pounds on all his rateable property and occupation, in the manner directed to be ascertained by an act of assembly, passed the third day of April, one thousand seven hundred and seventy nine, intitled, "An Act to raise the supplies for the year one thousand seven hundred and seventy nine;" and as may be directed to be taken by every yearly or other state tax in future.

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wealth.

No militia
man to
withdraw
himself
from his
company.

Persons to
prove their
age.

Persons
having es-
tates, shall
pay 15s. in
each 100l.
over and
above their
other fine.

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wealth.

How to as-
certain such
estate.

Pay of the
lieutenants
and sub
lieutenants.

Substitutes
may be
hired.

Mode of
determin-
ing appeals.

SECT. 45. And in order that the lieutenant of each county may have the amount of the whole estate of each person residing in said county, although the said estate or estates may be situate in some other county or counties, that the said lieutenant may be able where the case requires it, to levy on the interest for the whole, wheresoever lying within this state:

SECT. 46. *Be it further enacted by the authority aforesaid,* That the assessors of each and every county, finding any kind of taxable estate within said county belonging to persons resident in some other county within the state, shall and are hereby required to make out a list of the amount of the valuation of such estate or estates, placing the same opposite to the name of such proprietor, and once in every year send such lists to the lieutenant of the county where the owner of such estate may reside.

SECT. 47. *And be it further enacted by the authority aforesaid,* That the lieutenant of the city of Philadelphia and of the several counties of this state shall have and receive the value of one and a half bushels of wheat per day, and the sub lieutenants for the said city and counties shall have and receive the value of one and a quarter bushels of wheat per day, each, as the same shall be declared from time to time by the general assembly, for their trouble, and for every day in which they shall be employed, in doing and performing the respective duties required by this act; which said sum or sums shall be respectively paid unto them out of the fines incurred by this act.

SECT. 48. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person, called to do a tour of militia duty, to find a sufficient substitute, such substitute having been previously clasped at least six months in the company or battalion to which the person belongs who hires such substitute: *Provided always,* That persons serving by substitute as aforesaid, if said substitute shall be called in his own turn into actual service, before the term expires which he was to serve for his employer, that then the person procuring such substitute shall march in his said substitute's turn, or be liable to pay his fine for neglect, which fine is to be recovered as other fines for neglect of serving are by this act directed to be recovered; and that sons who are not subject to the militia law may be admitted as substitutes for their fathers; and that each substitute be approved of by the lieutenant or sub lieutenant.

SECT. 49. *And be it further enacted by the authority aforesaid,* That the lieutenant or one of the sub lieutenants shall,

shall, within ten and not less than five days after the marching of any part of the militia, call to his assistance two freeholders, one of whom shall be a justice of the peace, to sit, at the most convenient place for the inhabitants of their respective districts, (notice having been given of such place in the written or printed summons of every militia man) and shall there hear and determine all appeals that may be made by the persons thinking themselves aggrieved by any thing done in pursuance of this Act; and they are hereby authorized and required to grant such relief to such appellant as to them shall appear just and reasonable, in consideration of such inability of body as in the opinion of the court renders him incapable of performing military duty; and each of the said freeholders, before they shall sit on the said appeal, shall take the following oath or affirmation, viz. "That he will hear and impartially determine on the cases of appeal that may be laid before him, agreeable to law, and according to the best of his knowledge;" which oath or affirmation the said justice, lieutenant or sub lieutenant, is hereby empowered and required to administer: And the said justice and freeholder shall have and receive from the said lieutenant the value of one bushel of wheat each for every day they sit on the said appeals; and the said lieutenant and justice of the peace shall each keep a separate record of the proceedings of such court of appeals.

SECT. 50. *And be it further enacted by the authority aforesaid,* That if any person or persons shall knowingly sell, buy, take or exchange, conceal, or otherwise receive any arms, accoutrements, colours or drums, belonging to this state, or the united states, on any account or pretence whatsoever, the person so offending, being convicted thereof, before one or more justice or justices of the peace of the city or county where such offence shall be committed, shall forfeit and pay for every such offence treble the value of such arms or accoutrements, to be ascertained by the said justice or justices, and levied by distress and sale of the offender's goods and chattels by the justice or justices before whom such offender shall be convicted, returning the overplus, if any, on demand, to such offender; and for want of such distress, shall commit such offender to the common jail of the county, there to remain without bail or mainprize, for any term not exceeding three months, unless such money shall be sooner paid; and in every such case the proof of the property shall be made by the possessor of such arms and accoutrements.

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of the Common-
wealth.Defarters
from the e-
nemy not to
be enrolled.No civil
process to
be served
while going
or return-
ing from re-
view.Monies
arising, how
appropri-
ated.Support for
wounded
militiamen.

SECT. 51. *And be it further enacted by the authority aforesaid,* That no person not being a subject of this state, or any of the united states, who already has deserted or shall hereafter desert from the enemy in the course of the present war, shall be enrolled in any company of militia of this state, during the present contest, or be subject to any fine or penalty for not serving as by this act is required of others.

SECT. 52. *And be it further enacted by the authority aforesaid,* That no civil process shall be served on any commissioned, non commissioned officer or private at any regimental review, or training of any company, or while going to or returning from the place of such review or training.

SECT. 53. *And be it further enacted by the authority aforesaid,* That all monies passing into the treasury by virtue of the directions of this act, shall be appropriated as a fund for the benefit and relief of such officers and privates of the militia of this state, as are or shall be wounded and disabled in service, and of the widows and children of such as have or shall fall in battle or otherwise lose their lives in the service of the state, and shall not be considered as a revenue for any other purpose than that of supporting the necessary officers for carrying this law into effect, equipping and furnishing the militia with every necessary apparatus for the defence and security of the state, the surplus, if any to be appropriated in such manner and to such uses as the assembly shall from time to time direct and appoint.

SECT. 54. *And be it further enacted by the authority aforesaid,* That if any commissioned officer, non commissioned officer or private militia man of this state, who has lost or hereafter may lose a limb in any engagement in the service of this state, or in the service of the united states of America, or be so disabled as to render him incapable of getting a livelihood, he shall receive during life, or the continuance of such disability, a pension, adequate to the necessity of such disabled officer or private militia man, by the judgment of the orphans court of the county where such disabled officer or private militia man shall dwell or reside. And every officer or private disabled as aforesaid, shall before he be legally entitled to the pension above mentioned, produce a certificate upon oath, from the commanding officer who was in the same engagement in which he was wounded, or from the commanding officer next in command, or the surgeon that attended him; and upon such disabled officer, non commissioned

missioned officer or private militia man's producing such certificate as aforesaid to the orphans court of the county where such disabled officer, non commissioned officer or private militia man shall dwell or reside, the said court is hereby enjoined and required, if they are satisfied of the truth hereof, to give every such officer or private an order on the lieutenant of the said city or county, for such sums of money from time to time as to them shall appear just and necessary; provided such sums of money do not exceed the half pay and rations of such officer or private: And the said lieutenant is hereby enjoined and required to accept and pay the said order, to such officer or private: And the said lieutenant shall draw on the state treasurer, as often as he shall have occasion, for such sum or sums of money as he shall make appear to the president and council to be necessary for carrying this proviso into execution.

SECT. 55. *And be it further enacted by the authority aforesaid,* That if any officer, non commissioned officer or private militia man, residing in this state, having a family, has been killed, shall be killed, or shall die of his wounds received in the service of this or the united states, a certificate from the commanding or other officer next in rank, who was in the same engagement in which he was killed or wounded and died of his wounds, being produced to the orphans court, and also a certificate from the overseers of the poor, and two other reputable freeholders of the township, borough, ward or district where the family of such deceased officer or private militia man shall dwell or reside at that time, setting forth the particular circumstances of such family, the age or ages of the child or children, and the necessity of granting them some support; the said orphans court, when possessed of the certificates aforesaid, is hereby authorized to give orders upon the lieutenant of the city or county for such sum of money as they may think just and necessary for the support of such family from time to time.

SECT. 56. *Provided always,* That the sum of money aforesaid does not exceed the half pay and rations that such officer, non commissioned officer or private was entitled to at the time of his death.

SECT. 57. *And be it further enacted by the authority aforesaid,* That if any field or other commissioned officer, at any regimental review, or on any other occasion, when the battalion or company to which he may belong, or in which he holds a command, is paraded in arms, shall appear, misbehave, or demean himself in an un-officer like

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Families of
militia men
killed in
service, how
supported.

Penalty on
officers mis-
behaving
while on
parade.

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wealth.

manner, he shall for such offence be cashiered or punished by fine, at the discretion of a general court martial, as the case may require, in any sum not exceeding the price of six days labour; and if any non commissioned officer or private shall, on any occasion of parading the company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be found drunk, or shall disobey orders, or use any reproachful or abusive language to his officers or any of them; or shall quarrel himself, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined in any sum not exceeding the price of ten day's labour, nor less than one day's labour.

**Penalty on
officers ne-
glecting to
issue orders
for assem-
bling in bat-
talion or
company,**

**and on non-
commis-
ioned officers.**

**Penalty on
captains for
neglecting
to make out
a list of per-
sons noticed
to a tour of
duty.**

**Rules and
regulations.**

SECT. 58. *And be it further enacted by the authority aforesaid, That if the lieutenant colonel or commanding officer of any battalion shall neglect or refuse to give orders for assembling his battalion at the times appointed by this law, or at the direction of the lieutenant or sub lieutenant of the city or any county, when the said lieutenant or sub lieutenant is thereto commanded by the president or vice president in council, or in case of an invasion of the city or county to which such battalion belongs, he shall be cashiered and punished by fine at the discretion of a general court martial; and if a commissioned officer of any company shall on any occasion neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the lieutenant colonel or commanding officer of the battalion to which such company belongs, he shall be cashiered and punished by fine at the discretion of a regimental court martial; and a non commissioned officer offending in such case shall be fined in any sum not exceeding the price of ten days labour.*

SECT. 59. *And be it further enacted by the authority aforesaid, That if any captain or commanding officer of a company shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty, and send or convey the same to the lieutenant colonel or commanding officer of the battalion to which such company may belong, for such neglect or refusal he shall be cashiered or fined, at the discretion of a regimental court martial*

SECT. 60. *And be it further enacted by the authority aforesaid, That the following rules and regulations shall be those by which the militia shall be governed.*

1st. Every general court martial shall consist of thirteen members, all of whom shall be commissioned officers, and

and of such rank as the case may require, and these thirteen shall choose a president, out of their number who shall be a field officer.

2d. Every regimental court martial shall be composed of five members, all commissioned officers, who are to choose one of their members a president, not under the rank of a captain.

3d. In any court martial, not less than two thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

4th. The president of each and every court martial, whether general or regimental, shall require all witnesses, in order to the trial of offenders, to declare on oath or affirmation, that the evidence they shall give is the truth, the whole truth, and nothing but the truth; and the members of all such courts shall take an oath or affirmation, which the president is required to administer to the other members, and the next in rank is required to administer to him, that they will give judgment with impartiality.

5th. All members of any militia, called as witnesses in any case before a court martial, who shall refuse to attend and give evidence, shall be censured or fined at the discretion of the court.

6th. No officer or private man being charged with transgressing these rules shall be suffered to do duty in the battalion, company or troop to which he belongs, until he has had his trial by a court martial, and every person so charged shall be tried as soon as a court martial can be conveniently assembled.

7th. If any officer or private man shall think himself injured by his lieutenant colonel or the commanding officer of the battalion, and shall upon due application made to him, be refused redress, he may complain to the lieutenant of the county, who shall summon a general court martial, that justice may be done.

8th. If any inferior officer or private man shall think himself injured by his captain, or other superior officer in the battalion, troop or company to which he belongs, he may complain to the commanding officer of the battalion, who shall summon a regimental court martial for the doing justice, according to the nature of the case.

9th. No penalty shall be inflicted at the discretion of a court martial other than degrading, cashiering or fining.

10th. The commanding officer of the militia for the time being, shall have full power of pardoning or mitigating

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ing any censures or penalties ordered to be inflicted on any private or non commissioned officer for the breach of any of these articles by a general court martial; and every offender, convicted as aforesaid by any regimental court martial, may be pardoned, or have the penalty mitigated by the lieutenant colonel or commanding officer of the battalion, excepting only where such censures or penalties are directed as satisfaction for injuries received by one officer or private man from another; but in case of officers, such sentence to be approved by the commander in chief or the nearest general officer of the militia, who are respectively empowered to pardon or mitigate such sentence or disapprove the same.

11th. The militia on the days of exercise may be detained under arms on duty in the field any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

12th. No company or battalion shall meet at a tavern on any of the days of exercise, nor shall march to any tavern before they are discharged; and any person who shall bring any kind of spirituous liquor to such place of training shall forfeit such liquors so brought for the use of the poor belonging to the township where such offender lives.

Fines, how
to be paid
in.

13th. All fines that shall be incurred by any breach of these rules shall be paid into the hands of the clerk of the company to which the offenders belong, but if a field officer, to the clerk of that company whose captain has the first rank in the battalion, within three weeks after they become due; but in case of neglect or refusal to pay any of the said fines, then in such case, upon application made by the clerk to whom such fine or fines ought to have been paid, it shall and may be lawful for any one justice of the peace of the county (if the fines do not exceed fifty pounds, or two justices, if above that sum) by warrant under his or their hands and seals, to levy such fine or fines respectively on the offender's goods and chattels, and otherwise proceed in recovering the same as is by law directed. And when recovered, the said justice or justices are required to pay such fines into the hands of the clerk who applied for recovery and shall be applied as other fines before directed.

How service
is to be paid
for where
no special
recompence
is provided.

SECT. 61. *And be it further enacted by the authority aforesaid, That in any case wherein any person is by this act called to do or perform any thing in execution thereof, or otherwise, and no special recompence is herein provided for*

for such service, such person shall be satisfied for the same, at the discretion of the lieutenant, taking to his assistance two sub lieutenants of the city or county respectively.

SECT. 62. *And be it further enacted by the authority aforesaid,* That in any case wherein the person, who shall be authorised to collect any fine due by virtue of this act, shall need assistance, in levying the same, such collector, on application to any captain, or inferior officer of the militia of the place where such fine shall be due, shall be assisted therein by a sufficient party of militia of the neighbourhood, ordered on such duty by such captain or other officer ; and if such captain or other officer, or any of the party by such captain or other officer ordered on such duty, refuse or neglect to perform the said duty, such captain or other officer shall forfeit and pay the sum of fifty pounds ; and if any non commissioned officer or private be delinquent therein, he shall forfeit and pay the sum of twenty five pounds, to be recovered, with costs of suit, as demands for fifty pounds are by law recoverable ; to be applied as other fines levied by virtue of this act.

SECT. 63. *And be it further enacted by the authority aforesaid,* That in case any militia man shall desert when he is out on a tour of duty, the commanding officer of the battalion or detachment from which he deserts, shall as soon as possible, give notice thereof to the lieutenant of the city or county, or sub lieutenant of the district from which he came, who, if he does not see proper to send him back, shall subject him to the payment of such fine as he would have paid if he had not gone out on such tour.

SECT. 64. *And be it further enacted by the authority aforesaid,* That if any suit or suits, shall be brought or commenced against any person or persons, for any thing done in pursuance of this act, the action shall be laid in the county where the causes of such action did arise, and not elsewhere. And the defendant or defendants in such action or actions to be brought may plead the general issue, and give this act and the special matter in evidence ; and if the jury shall find for the defendant or defendants in such action or actions, or if the plaintiff or plaintiffs shall be non suited or discontinue his or their action or actions, after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same, as any defendant

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wealth.*Militia to
assist in col-
lecting fines
where ne-
cessary.Penalty for
neglect or
refusal.Deserters,
how pro-
ceeded with.Suits shall
be brought
in the coun-
ty where
the offence
shall be
committed.
Defendants
may plead
the general
issue, and
give this act
in evidence.

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of the Commonwealth.Manner in
which fines
shall be re-
covered.

fendant or defendants had or have in other cases to recover costs by law.

SECT. 65. *And be it further enacted by the authority aforesaid,* That all and every the fines and forfeitures, by this act made payable, and the mode of recovery not herein before particularly pointed out, shall be recovered by the lieutenant of each county, and of the city of Philadelphia, by summons or warrant and execution from under the hand and seal of a justice of the peace, in the neighbourhood where the person charged resides, directed to any constable of the city or county, requiring him to levy the same on the goods and chattels of the delinquent, and the same cause to be appraised by two freeholders, and after being publicly advertised seven days, make sale thereof, and after payment of the fine or the forfeiture to the lieutenant, together with costs and charges, pay the overplus, if any, to the owner; and if goods and chattels sufficient to discharge the same cannot be found, that then the justice, granting such precept, shall certify the proceedings had thereon, to the prothonotary of the county court of common pleas, who, is thereupon required, to issue a fieri facias, directed to the sheriff of said county, for the levying the fines and forfeitures aforesaid, together with the costs on the lands or tenements of such delinquent.

Proviso for
appeal.

SECT. 66. *Provided always, and be it enacted by the authority aforesaid,* That if any person or persons shall think him or themselves aggrieved by the judgment of the justice aforesaid, in any suit of fifty pounds or upwards, he or they may appeal before the justice aforesaid, and on the party's giving security, within six days next after any such judgment, to prosecute such appeal, in the court of common pleas of the county with effect, the justice shall receive the same, and stay further process, and the said justice shall return every such appeal on the first day of the next term, and the court shall direct a trial by jury, as in other cases of debt, whose verdict shall be final and conclusive, and all such appeals shall be tried at the term, to which such returns shall be made; any law, custom or usage, to the contrary notwithstanding.

Repeal of
sundry for-
mer acts.

SECT. 67. *And be it further enacted and declared,* That the act entitled, "An Act to regulate the militia of the commonwealth of Pennsylvania," passed on the seventeenth day of March, anno domini one thousand seven hundred and seventy seven; also the supplement to the said act passed June the nineteenth, anno domini one thousand seven hundred and seventy seven; also a further

supplement

supplement to the said act, passed on the thirteenth day of December, anno domini, one thousand seven hundred and seventy seven; also a further supplement to the said act, passed on the fifth day of April, anno domini, one thousand seven hundred and seventy nine; also such parts of an act intitled, *An Act to empower the supreme executive council, and justices of the supreme court, to apprehend suspected persons, and to increase the fine to which persons are liable, for neglecting to perform their tour of militia duty;* as relates to the fining the militia for not performing a tour of duty, and the pay of the lieutenants, are hereby repealed and made void.

1780.

The fourth Year
of the Common-
wealth.

SECT. 68. *Provided always,* That nothing in this act contained shall be deemed to repeal, alter or dispense with the powers, authorities or duties of the present lieutenants and sub lieutenants of the city and counties aforesaid, or of any other officer or person under the militia laws that have been in force in this state immediately before the passing of this act, until their respective offices are supplied and filled by new appointments in virtue of this act; which said present lieutenants and sub lieutenants, or other proper officers, are hereby authorised, required and enjoined to collect or cause to be collected all such fines and forfeitures as have been or shall be incurred during the continuance of their respective commissions, and pay in the same agreeable to this law, or the late laws aforesaid, on or before the first day of July next. But in case the president or vice president and council shall approve of the discontinuing to act or resignation of the said present lieutenants and sub lieutenants, or any of them, and not otherwise, it shall be lawful for every such officer, and he is hereby required, to deliver to his successor in office an account, on oath, of all monies uncollected and outstanding on account of fines and forfeitures aforesaid, who is in such case impowered and required to collect the same.

JOHN BAYARD, SPEAKER.

*Enacted into a law at Philadelphia, on Monday, the
20th day of March, A. D. 1780.*

THOMAS PAIN E, *clerk of the general assembly.*

Tab 28

THE
REVISED STATUTES

OF
SOUTH CAROLINA.

VOL. I.

CONTAINING

THE CIVIL STATUTES.

Approved by the General Assembly of 1893.

COLUMBIA, S. C.
CHARLES A. CALVO, JR., STATE PRINTER.
1894.

A. D. 1894.

Declaration of second admissible against principal.—*State v. Dupont*, 3
McC., 334.

Person en-
gaged in duel
may be used as
witness.

Ib.

Sec. 128. (2471.) In every case where two or more persons shall be charged in any indictment for fighting a duel or being concerned therein, either of such persons may be used as a witness or witnesses in behalf of the State, by having his or their names stricken out of the indictment, or otherwise, at the discretion of the Attorney-General or Solicitor, or other attorney acting for the State, conducting such prosecution, of which an entry shall immediately be made on the minutes of the Court; and in case any such person or persons so used as a witness or witnesses in behalf of the State in any prosecution for fighting a duel, or for being concerned therein, shall afterwards be indicted for the same offense, the fact of his or their being used as a witness or witnesses in the former prosecution for the same offense shall and may be pleaded in bar to such subsequent indictment, and on proof thereof by competent evidence such person or persons shall be thereof acquitted and discharged.

Sec. 129. (2472.) Any person carrying a pistol, dirk, dagger, slingshot, metal knuckles, razor, or other deadly weapon usually used for the infliction of personal injury, concealed about his person shall be guilty of a misdemeanor, and upon conviction thereof before a Court of competent jurisdiction shall forfeit to the County the weapon so carried concealed, and be fined in a sum not more than two hundred dollars or imprisoned not more than twelve months, or both, in the discretion of the Court. Nothing herein contained shall be construed to apply to peace officers while in the actual discharge of their duties as such officers, or to persons carrying concealed weapons while upon their own premises.

It is necessary to conviction under this Section for carrying a concealed pistol for the State to prove that it was concealed about the person.—*State v. Johnson*, 10 S. C., 187.

To prove that it was so concealed as to be generally hidden from ordinary observation completes the offense.—Ib.

Carrying con-
cealed weapons
1880, XVII,
445, 11.

Ib. 11.

Sec. 130. (2473.) If any person be convicted of assault, assault and battery, assault or assault and battery with intent to kill, or of manslaughter, and it shall appear upon the trial that the assault, assault and battery, assault or assault and battery with intent to kill, or manslaughter, shall have been committed with a deadly weapon of the character specified in the foregoing Section, carried concealed upon the person of the defendant so convicted, the presiding Judge shall, in addition to the punish-

Assault, &c.,
with concealed
weapons.
1880, XVII,
446, 83.

Tab 29

THE
REVISED CODES

1903

STATE OF SOUTH DAKOTA.

Comprising the

Political Code, Civil Code, Code of Civil Procedure,
Probate Code, Justices Code, Penal Code,
and Code of Criminal Procedure.

Compiled and Revised by
G. C. MOODY, BARTLETT TRIPP and JAMES M. BROWN,
A Commission duly appointed pursuant to Chapter 183
of the Laws of the State of South Dakota.

Printed Pursuant to Act of the Legislature
of 1903.

OFFICIAL STATE EDITION.

STATE PUBLISHING COMPANY, PIERRE.

Disposing of tainted food.

s. 454. Pen. C.
C. L. § 6653.

Manufacturing slung shot.

s. 455. Pen. C.
C. L. § 6654.

Carrying or using slung shot.

s. 456. Pen. C.
C. L. § 6655.

Concealed weapons.

s. 457. Pen. C.
C. L. § 6656.

Wilful prairie fire.

s. 458. Pen. C.
C. L. § 6659.

Negligent prairie fire.

s. 459. Pen. C.
C. L. § 6660.

Refusing to aid at fire.

s. 460. Pen. C.
C. L. § 6661.

Ferry must be licensed.

s. 1, c. 21, 1879.
C. L. § 6662.

Ferry boat violated.

s. 462. Pen. C.
C. L. § 6663.

same as unadulterated or undiluted, knowing it to have been adulterated or diluted, is guilty of a misdemeanor.

§ 468. Every person who knowingly sells, or keeps or offers for sale, or otherwise disposes of any article of food, drink, drug or medicine, knowing that the same has become tainted, decayed, spoiled or otherwise unwholesome or unfit to be eaten or drank, with intent to permit the same to be eaten or drank by any person or animal, is guilty of a misdemeanor.

§ 469. Every person who manufactures or causes to be manufactured, or sells or offers or keeps for sale, or gives or disposes of any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a misdemeanor.

§ 470. Every person who carries upon his person, whether concealed or not, or uses or attempts to use against another, any instrument or weapon of the kind usually known as slung shot, or of any similar kind, is guilty of a felony.

§ 471. Every person who carries concealed about his person any description of firearms, being loaded or partly loaded, or any sharp or dangerous weapon, such as is usually employed in attack or defense of the person, is guilty of a misdemeanor.

§ 472. Every person who shall wilfully set on fire, or cause to be set on fire, any woods, marshes or prairies, with intention to injure the property of another, shall be deemed guilty of a misdemeanor, and shall be liable for all damages done by such fire.

§ 473. Every person who negligently or carelessly sets on fire, or causes to be set on fire, any woods, marshes or prairies, or who, having set the same on fire, or caused it to be done, negligently or carelessly, or without full precaution or efforts to prevent, permits it to spread beyond his control, shall, upon conviction, be fined not exceeding one hundred dollars and not less than ten dollars, and shall be liable to injured parties for all damages occasioned thereby. One-half of such fine shall, when collected, go to the informer.

§ 474. Every person who, at the burning of a building, is guilty of any disobedience to lawful orders of any public officer or fireman, or of any resistance to or interference with the lawful efforts of any fireman or company of firemen to extinguish the same, or of any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of a misdemeanor.

§ 475. Every person who maintains a ferry for profit or hire upon any waters within this state, without having first obtained a license as provided by law, is guilty of a misdemeanor. And any license or lease granted by the board of county commissioners of the proper county shall be exclusive to the lessee or licensee for a distance of two miles from the place where such ferry is located, up and down such stream either way; and any person who shall ferry, transport or carry or attempt to ferry, transport or carry, any passengers, goods, chattels, or merchandise, or who shall have, keep, or maintain any scow, skiff, or boat for the purpose of ferrying, transporting, or carrying any passengers, goods, chattels, or merchandise upon any water of this state, within a distance of two miles of any licensed ferry, shall be guilty of a misdemeanor, and may be punished by a fine not exceeding one hundred dollars, or thirty days' imprisonment in the county jail, or by both fine and imprisonment; when such ferry is upon waters dividing two counties, the offenders may be prosecuted in either county.

§ 476. Every person who, having entered into a bond or obligation, as provided by his ferry charter or any general law on the subject

Tab 30

THE

CODE OF TENNESSEE,

BEING A COMPILATION

OF THE

STATUTE LAWS

OF THE

STATE OF TENNESSEE,

OF A

GENERAL NATURE, IN FORCE JUNE 1, 1884.

BY

W. A. MILLIKEN AND JOHN J. VERTREES.

NASHVILLE, TENN.
MARSHALL & BRUCE, PRINTERS AND PUBLISHERS.
1884.

By enlisting, or procuring or persuading others to enlist, for that purpose;

By furnishing such enemies with arms, ammunition, provisions, or any other article for their aid or comfort.

4. Forming, or being in anywise concerned in forming, any combination, plot, or conspiracy for betraying the State, or the United States, into the hands or power of any foreign enemy.

5. Giving or sending any intelligence to the enemies of the State for that purpose.

5520. Every person so offending, and being thereof legally convicted by the evidence of two sufficient witnesses, or by confession in open court, shall be adjudged guilty of treason against the State, and shall suffer imprisonment in the penitentiary not less than ten or more than twenty years. (4744)

5521. If any person have knowledge of the commission of treason, and conceals the same, or does not, as soon as may be, disclose such offense to the Governor, or some attorney-general, or judge of the State, he is guilty of misprision of treason, and shall, upon conviction, be fined not exceeding one thousand dollars, and imprisoned in the penitentiary not more than five years. (4745)

ARTICLE II.

CARRYING OR SELLING DANGEROUS WEAPONS.

5522. Any person who carries under his clothes, or concealed about his person, a bowie-knife, Arkansas tooth-pick, or other knife or weapon of like form, shape, or size, is guilty of a misdemeanor, and, upon conviction, shall be fined not less than two hundred dollars nor more than five hundred, and shall be imprisoned in the county jail not less than three nor more than six months. (4746)

See Const. Art. I., § 26, and note.

The terms "other knife or weapon of like form, shape, or size," are not too indefinite to be enforced, and these clauses are valid. 5 Hum., 120, 122.

It is a question of fact for the jury to determine, whether the weapon the defendant is charged with carrying concealed on his person, is of the like form, shape, or size of a bowie-knife or Arkansas tooth-pick. *Ib.*, 123.

It is not intended to prohibit the carrying of a small pocket-knife, and the Act is to be construed according to its spirit and not its letter. *Ib.*

5523. It is a misdemeanor to sell, or offer to sell, or to bring into this State for the purpose of selling, giving away, or otherwise disposing of any knife or weapon mentioned in the preceding section; and the person guilty thereof, for each knife shall, upon conviction, be fined not less than one hundred nor more than five hundred dollars, and be imprisoned in the county jail not less than one month nor more than six months. (4747)

Tab 31

THE

CODE OF TENNESSEE,

BEING A COMPILATION

OF THE

STATUTE LAWS

OF THE

STATE OF TENNESSEE,

OF A

GENERAL NATURE, IN FORCE JUNE 1, 1884.

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NASHVILLE, TENN.
MARSHALL & BRUCE, PRINTERS AND PUBLISHERS.
1884.

OFFENSES AGAINST THE PUBLIC PEACE.

Drawing such weapons
(4748)

5524. If any person shall maliciously draw, or attempt to draw, any such knife or weapon from under his clothes, or any place of concealment about his person, for the purpose of sticking, cutting, awing, or intimidating another, he is guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than three nor more than five years.

The fact that the weapon was drawn in self-defense is no justification to an indictment under this section. 5 Smed, 496, 500; 4 Lea, 245.

Stabbing with such weapons
(4749)

5525. If any person carrying such knife or weapon shall, in a sudden rencontre, cut or stab another therewith, he is guilty of a felony, whether death ensues or not, and, upon conviction, shall be imprisoned in the penitentiary not less than three nor more than fifteen years.

Officer's fee for arresting
(4750)

5526. Any civil officer arresting and prosecuting to conviction any person guilty of any of the offenses enumerated in this article, shall be entitled to the sum of fifty dollars, to be taxed in the bill of costs.

A special deputy sheriff appointed for one year to preserve the peace and prevent infractions of the law, and to make arrests and deliver all prisoners to the county jail, is a civil officer within the meaning of this section. 111 Lea, 125.

Attorney's fee
(4751)

5527. The attorney-general is entitled to a tax fee of twenty dollars in each case when a defendant is convicted of any of the offenses enumerated in this article.

This does not authorize the taxing of such a fee upon conviction for unlawfully carrying a pistol. 4 Lea, 224.

Prosecutor
(4752)

5528. No prosecutor is required on any presentment or indictment under the provisions of this article.

Dangerous weapons
(4753)

5529. No person shall publicly ride or go armed to the terror of the people; or privately carry any dirk, large knife, pistol, or other dangerous weapon, to the fear or terror of any person.

Sureties for good behavior
(4754)

5530. Every such offender may be required to find sureties for his good behavior; and for that purpose any judge or justice of the peace may, upon his own view, or upon the information of any other person upon oath, issue his warrant, and thereupon cause such offender to be arrested and brought before him, and may bind him to his good behavior.

Commitment
(4755)

5531. If the party arrested failed to find sureties, the judge or justice shall commit him to jail for not exceeding ten days, and until he pays the costs of the proceedings against him, or be legally discharged.

Forfeiture
(4756)

5532. If such person continue so to offend, he shall forfeit his recognizance, and be guilty of a misdemeanor.

Unlawful to carry certain weapons
1879, ch. 186.

An indictment for this offense is good which charges the defendant with carrying the weapon "to the fear and terror of certain persons," without naming them. 6 Lea, 206.

5533. It shall not be lawful for any person to carry, publicly or privately, any dirk, razor concealed about his person, sword cane, loaded cane, sling-shot or brass knucks, Spanish stiletto, belt or pocket pistol, revolver, or any kind of pistol,

except the army or navy pistol, usually used in warfare, which shall be carried openly in the hand.

5534. Any person guilty of such offense shall be subject to presentment or indictment, and on conviction shall be fined fifty dollars, and imprisoned in the county jail of the county where the offense was committed, the imprisonment only in the discretion of the court; *Provided*, the defendant shall give good and sufficient security for all the costs, fine, and any jail fees that may accrue by virtue of his imprisonment.

5535. The provisions of the above sections shall not apply to any person employed in the army, navy, or marine service of the United States, or to any officer or policeman while *bona fide* engaged in his official duties, in the execution of process, or while searching for or engaged in arresting criminals, nor to persons who may have been summoned by such officers or policemen in the discharge of their said duties, and in arresting criminals and transporting and turning them over to the proper authorities. Persons who may be employed in the army, navy, or marine service, as aforesaid, shall only carry such pistols as are prescribed by the army and navy regulations.

5536. Any person convicted of this offense shall not be deprived of the right of voting or holding office.

The word "carrying" is used in the sense of *wearing weapons, or going armed*. A single act of *wearing* or *carrying a forbidden weapon when carried with the intent of going armed*, is criminal. 3 Heis., 199. Foot note. 7 Bax., 59; 3 Leg. Rep., 114. It is the intention of going armed that makes the offense. *Ib.* Borrowing a pistol and carrying it, for the purpose of *wearing it on a bear chase* is not going armed in the sense of the law. 5 Lea, 348. Carrying a navy six in a scabbard hung on the saddle, is indictable. 7 Bax., 105. Carrying an army pistol in a pack, is not a violation of the law unless so carried with the intent of going armed. 3 Leg. Rep., 114; 3 Heis., 198; 3 Heis., 165; 7 Bax., 60.

Carrying a forbidden weapon on one's own premises, is a violation of the statute. 6 Lea, 585. Imprisonment for unlawfully carrying a pistol is within the discretion of the court trying the case, and this discretion will not be interfered with by the Supreme Court, except in cases of gross abuse. 4 Lea, 483. The court has no power to remit the fine fixed by statute for this offense. Section 6092 does not apply to such cases. 4 Lea, 485. To give an officer the benefit of the exemption of the statute he must produce the process under which the claims to have acted, or a certified copy thereof, if in existence. 5 Lea, 705. The exemption only applies in favor of an officer while actually engaged in executing criminal process, or searching for and arresting criminals. 5 Lea, 706; 6 Lea, 336; 4 Lea, 466; 6 Bax., 450, 446. It applies to a justice of the peace while carrying a prisoner to jail, and he may still wear the weapon on his way home if he return in a reasonable time. 6 Bax., 50, 446. This exception does not protect a detective when not executing criminal process. 6 Lea, 346.

5537. It shall be the duty of all peace officers in this State to see that section 5533 is strictly enforced, and if they know of its violation, it is hereby made their duty to report the same to the grand jury of their county at its next term after such violation, who shall proceed to make presentment without a prosecutor. All sheriffs, deputy sheriffs, coroners, justices of the peace and constables shall be deemed peace officers under the provisions of this section.

Punishment
(15.)

Persons em-
ployed in U.S.
Army, navy or
marine service,
policemen and
peace officers
(15.)

Duty of officers
1870, ch. 13
(4739c)

Tab 32

THE
PENAL CODE

OF THE
STATE OF TEXAS

PASSED BY THE

SIXTEENTH LEGISLATURE.

FEBRUARY 21, 1879,

TOOK EFFECT JULY 24, 1879.

GALVESTON:
A. H. BELO & CO., STATE PRINTERS,
1879.

TITLE VI.—OFFENSES AFFECTING SUFFRAGE—CH. 4

Violence, molestation and disturbance in election
(Act Aug. 28, 1870, p. 31, sec. 1)

ART. 161. If any person shall disturb any election, by inciting or encouraging a tumult or mob, or shall cause any disturbance in the vicinity of any poll or voting place, he shall be punished by fine of not less than one hundred nor more than five hundred dollars, and, in addition thereto, may be imprisoned in the county jail for a period not exceeding one month.

Intimidation of voters
(Act Aug. 28, 1870, p. 31, sec. 2)

ART. 162. If any person shall, by force or intimidation, obstruct or influence, or attempt to obstruct or influence any voter in the free exercise of the elective franchise, he shall suffer the punishment prescribed in the preceding article.

Carrying arms
during election
(Act Aug. 28, 1870, p. 31, sec. 3)

ART. 163. If any person, other than a peace officer, shall carry any gun, pistol, bowie knife, or other dangerous weapon, concealed or unconcealed, on any day of election, during the hours the polls are open, within the distance of one-half mile of any poll or voting place, he shall be punished as prescribed in article 161 of this Code.

CHAPTER FOUR.

MISCELLANEOUS OFFENSES AFFECTING THE RIGHT OF SUFFRAGE.

Illegal arrest of voter
P.C. 170

	Article	
Illegal arrest of voter	164	Failing to deliver returns
Illegal voting	165	Preventing delivery of returns
Repeating	166	Officer opening ballot
Depositing ballot not prescribed by law	167	County clerk failing to keep ballot boxes securely
Depositing two or more tickets folded together	168	County clerk failing to destroy ballots
Intimidating illegal voting	169	Not applicable in cases of contest
False swearing by voter	170	Willful neglect of official duty
Preventing voter to swear falsely	168	Keeping open bar-rooms on election day
Abusing, threatening, etc., ballot	170	Not applicable in what cases

Illegal voting
P.C. 170 and
Act Aug. 28, 1870, p. 31, sec. 1)

ARTICLE 164. If any magistrate or peace officer shall, knowingly, cause an elector to be arrested in attending upon, going to, or returning from an election, except in cases of treason, felony, or breach of the peace, he shall be punished by fine not exceeding three hundred dollars.

Intimidating illegal voting
(P.C. 170 and
Act Aug. 28, 1870, p. 31, sec. 2)

ART. 165. If any person knowing himself not to be a qualified voter, shall, at any election, vote, or offer to vote, for any officer to be then chosen, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Repeating
(Act Aug. 28, 1870, p. 31, sec. 3)

ART. 166. If any person shall vote, or attempt to vote more than once at the same election, he shall be punished as prescribed in the preceding article.

Depositing illegal ballot, or
tickets folded together

NOTE.—Chapter 119, acts 1870, after prescribing the kind of ballot to be used in elections, and prohibiting the pasting of the name of one candidate over the name of any other candidate, and the depositing of two or more tickets folded together, adds this penalty: "And any person who shall deposit any ballot, except as provided in this section, or shall deposit two or more tickets folded together, at any election in this state, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding one hundred dollars." See appendix E.

Intimidating illegal voting
(P.C. 170 and
Act Aug. 28, 1870, p. 31, sec. 3)

ART. 167. Every person who shall procure, aid, assist, counsel, or advise another to give his vote at any election, knowing that the person is not duly qualified to vote, or shall procure, aid, assist, counsel, or advise another to give his vote more than once at such election, shall be fined in a sum not less than one hundred nor more than five hundred dollars, and may, in addition thereto, be imprisoned in the county jail for a period not exceeding one month.

False swearing
by voter
P.C. 170

ART. 168. If any person challenged as unqualified shall be guilty of willful and corrupt false swearing, in taking any oath prescribed by law, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

who continue so unlawfully assembled, or engaged, in a riot, after being warned to disperse, shall be punished by the addition of one-half the penalty to which they would otherwise be liable, if no such warning had been given.

CHAPTER THREE

AFFRAIDS AND DISTURBANCES OF THE PEACE

Affray " defined
Disturbance of the peace
Public place " defined

§ 313 Shooting in public place
§ 314 Horse racing on public road or street
§ 315

Affray " defined
F.C. 180
Disturbance of
the peace
(Act June 18,
1861, p. 161)
F.C. 181

ARTICLE 313. If any two or more persons shall fight together in a public place, they shall be punished by fine, not exceeding one hundred dollars.

ART. 314. If any person shall go into any public place, or into or near any private house, or along any public street or highway near any private house, and shall use loud and vociferous or obscene, vulgar or indecent language, or swear, or curse, or expose his person, or rudely display any pistol or other deadly weapon in such public place, or upon such public street or highway, or near such private house, in a manner calculated to disturb the inhabitants thereof, he shall be fined in a sum not exceeding one hundred dollars.

Art. 315. A public place, within the meaning of the two preceding articles, is any public road, street or alley, of a town or city, inn, tavern, store, grocery, work shop, or any place to which people commonly resort for purposes of business, recreation or amusement.

Art. 316. If any person shall discharge any gun, pistol, or fire arms of any description, on or across any public square, street or alley in any city, town or village in this state, he shall be fined in a sum not exceeding one hundred dollars.

Art. 317. Any person who shall run, or be in any way concerned in running, any horse race in, along, or across any public square, street, or alley in any city, town or village, or in, along, or across any public road within this state, shall be fined in a sum not less than twenty-five nor more than one hundred dollars.

Public place
F.C. 181

Shooting in
public place
(Act Nov. 18,
1861, p. 161)

Horse-racing
on public road
or street
(Act May 18,
1861, p. 164)

Unlawfully
carrying arms
(Act April 18,
1861, p. 16)

Not applicable
when and to
whom
(Act April 18,
1861, p. 16)

§ 316 Arrow, without warning
§ 317 Officer failing to arrest, pursue,
§ 318 Not applicable to frontier counties

CHAPTER FOUR

UNLAWFULLY CARRYING ARMS

Unlawfully carrying arms
Not applicable, when and to whom
Carrying arms in church or other assembly
Not applicable, to whom

§ 316 Arrow, without warning
§ 317 Officer failing to arrest, pursue,
§ 318 Not applicable to frontier counties

ARTICLE 318. If any person in this state shall carry on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, sling shot, sword-cane, spear, brass-knuckles, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by fine of not less than twenty-five nor more than one hundred dollars; and, in addition thereto, shall forfeit to the county in which he is convicted, the weapon or weapons so carried.

Art. 319. The preceding article shall not apply to a person in actual service as a militiaman, nor to a peace officer or policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises.

Article IV—OFFENSES AGAINST PUBLIC PEACE—On 4

42

law or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the officer is to believe, and threatening, or not to admit of the arrest of the party about to make such attack, upon legal process.

Art. 320. If any person shall go into any church or religious assembly, or into school room, or other place where persons are assembled for amusement, or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball-room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to minister, or to perform, any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, shotgun, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of a knife manufactured and sold for the purposes of offense and defense, he shall be punished by fine not less than fifty nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.

Art. 321. The preceding article shall not apply to peace officers, or other persons authorized or permitted by law to carry arms at the places therein designated.

Art. 322. Any person violating any of the provisions of articles 318 and 320, may be arrested without warrant by any peace officer, and carried before the nearest justice of the peace for trial; and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by fine not exceeding five hundred dollars.

Art. 323. The provisions of this chapter shall not apply to or be enforced in any county which the governor may designate, by proclamation, as a frontier county and liable to incursions by hostile Indians.

Carries arms
lawfully
(Act April 11,
1871, p. 24.)

Not applicable
to whom.
(Act April 11,
1871, p. 24.)

Arrest without
warrant.
Officer (other
than peace officer)
punished.
(Act April 11,
1871, p. 24.)

No application
to frontier
county
(Act April 11,
1871, p. 24.)

Tab 33

upon Cheat river, one mile above Daniel Kyger's stone quarry, on the west fork above Edward Jackson's mill, nor on the Tyger Valley river above John Neusom's mill.

Sec. 8. All acts and parts of acts, coming within the purview of this act, shall be and the same are hereby repealed.

Sec. 9. This act shall commence and be in force from and after the passing thereof.

Repealing clause

Commencement

CHAPTER XCIII.

An ACT to amend an Act for more effectually preventing Obstructions to the Passage of Fish in James River and its Navigable Branches.

[Passed February 4th, 1806.]

Section 1. *BE it enacted by the General Assembly,* That whenever hereafter the tax upon seines imposed by an act, entitled, "An act for more effectually preventing obstructions to the passage of fish in James river and its navigable branches," shall be insufficient to pay to the surveyor of the Great Falls of James river, therein directed to be appointed, the sum stipulated to be paid him by the Executive, such deficiency shall not be paid by the public, but the said surveyor shall only be entitled to receive the amounts of the said tax; and it shall not be lawful for the auditor to draw upon the treasurer for a greater sum.

Fund for paying surveyor failing short not be made good.

Sec. 2. This act shall commence and be in force from and after the passing thereof.

Commencement

CHAPTER XCIV.

An ACT concerning Free Negroes and Mulattoes.

[Passed February 4th, 1806.]

Section 1. *BE it enacted by the General Assembly,* That no free negro or mulatto shall be suffered to keep or carry any fire-lock of any kind, any military weapon, or any powder or lead, without first obtaining a license from the court of the county or corporation in which he resides, which license may at any time be withdrawn by an order of such court. Any free negro or mulatto who shall so offend, shall, on conviction before a justice of the peace, forfeit all such arms and ammunition to the use of the inferior.

Free negro or mulatto pro- hibited use of arms, &c without license from court.

Sec. 2. It shall be the duty of every constable to give information against, and prosecute every free negro or mulatto who shall keep or carry any arms or ammunition contrary to this act.

Power of constables

Sec. 3. If any free negro or mulatto who shall have been convicted of keeping or carrying arms or ammunition, shall a second time offend in like manner, he shall, in addition to the forfeiture above, be punished with stripes, at the discretion of the justice, not exceeding thirty-nine.

Punishment for breach.

Sec. 4. This act shall commence and be in force from and after the first day of June next.

Commencement

CHAPTER XCV.

An ACT suspending an Execution against Benjamin Branch and Edward Branch, administrators of Benjamin Branch, deceased.

[Passed February 4th, 1806.]

Section 1. *BE it enacted by the General Assembly,* That the execution on a judgment amounting to two thousand five hundred and eighty-eight pounds six shillings and ten pence, and costs, obtained in the general court, at the November term, one thousand eight hundred, against Benjamin Branch and Edward Branch, administrators of Benjamin Branch, deceased, who was collector of the taxes for the county of Chesterfield for the years seventeen hundred and eighty-four, and seventeen hundred and eighty-five, shall be, and the same is hereby suspended; and the said Benjamin and Edward Branch, shall be allowed and permitted to pay and discharge the amount of the said judgment by four equal annual instalments, the first of which shall commence and be made on or before the first day of January next; and so soon as the said Benjamin and Edward Branch, shall have discharged the amount of the judgment and cost into the treasury, on the days aforesaid, the damages accruing thereon, shall be, and they are hereby fully remitted.

Execution vs. B. and E. Branch, executors of B. Branch, sus- pended.

Sec. 2. This act shall commence and be in force from and after the passing thereof.

Commencement

CHAPTER XCVI.

An ACT authorising Andrew McIntire to Erect a Mill-dam across the mouth of Simon's Creek.

[Passed February 4th, 1806.]

Section 1. *BE it enacted by the General Assembly,* That for the purpose of working a grist mill or other machine useful to the public, it shall be lawful for Andrew McIntire to erect a dam across the mouth of Simon's creek, in the county of Harrison: *Provided nevertheless,* That a slope at least thirty feet wide shall be carried

Terms on which dam may be erected.

Tab 34

CHAP. 78.—An ACT authorizing the taking of the depositions of distant witnesses.

[Passed March 22, 1847.]

1. *Be it enacted by the general assembly,* That in any suit at law upon affidavit setting forth that a witness resides more than one hundred miles from the place of holding the court in which the suit is pending, setting forth also the facts which it is expected the witness will prove, and the reasons on which such expectation is founded, said court in term, or the clerk in vacation, on the motion of the party filing such affidavit, may award a commission to take the deposition of said witness; and the deposition taken in pursuance thereof, upon reasonable notice, with a copy of the said affidavit to the adverse party, shall be read as evidence on the trial of the cause: *Provided*, That besides other proper exceptions to the deposition, it shall be lawful for the adverse party to file in writing an exception to the credibility of the witness, or of the testimony to which he has deposed, which exception shall be acted on and determined by the court, before the jury is sworn, and an order sustaining it shall have the effect to make void the commission for taking said witness's deposition, and to prevent the issuing of any other commission for the same purpose: *And provided*, That for good cause shewn, the court may require the personal attendance of the witness.

2. This act shall be in force from the passing thereof.

Commission to take depositions of distant witnesses, how awarded.

Notice to adverse party.

Exceptions to depositions.

When witness required to attend.

Commencement.

CHAP. 79.—An ACT providing for the punishment of certain offences within the cities, towns and boroughs of this commonwealth.

[Passed January 30, 1847.]

1. *Be it enacted by the general assembly,* That if any person shall unlawfully shoot at another in any public square, street, lane or alley, or other place of public resort in any city, town or borough within this commonwealth, with intent in so doing to maim, disfigure, disable or kill such person, or to do him some other bodily harm, or with intent to resist or prevent the lawful apprehension or detention of the party so offending, or of any other persons, every such offender, his aiders and abettors, shall be guilty of a high misdemeanor, and shall on conviction, be punished by imprisonment in the common jail for punishment, a period not less than six months nor more than three years; and shall moreover be fined in a sum not less than one hundred dollars, nor more than one thousand dollars, to be ascertained by the verdict of a jury.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 80.—An ACT to provide for the apprehension of prisoners escaping from the penitentiary, and the better security of felons therein.

[Passed March 22, 1847.]

Whereas there is no authority vested in any person to offer a competent reward for the apprehension of felons escaping from the penitentiary in time to make such reward available: For remedy whereof,

1. *Be it enacted by the general assembly,* That it shall be lawful for the superintendent, as soon as practicable after the escape of any prisoner or prisoners from the penitentiary, or elsewhere from his custody, shall come to his knowledge, to offer a competent reward for the apprehension and redelivery of such prisoner or prisoners, not exceeding for any one prisoner the sum of five hundred dollars; one half of which reward to be paid out of the funds of the institution, and the other half to be paid by the said superintendent, his seven assistant keepers and the guards for the interior of the penitentiary,

Preamble.

Rewards for prisoners escaping from penitentiary.

How to be paid.

Tab 35

THIRD EDITION

OF THE

CODE OF VIRGINIA:

INCLUDING

LEGISLATION TO JANUARY 1, 1874.

PREPARED BY

GEORGE W. MUNFORD.

PUBLISHED FOR THE STATE OF VIRGINIA, PURSUANT TO LAW, UNDER THE DIRECTION
OF R. F. WALKER, SUPERINTENDENT OF PUBLIC PRINTING.



RICHMOND:
PRINTED BY JAMES E. GOODE
1873.

assembled. If any person present, on being required to give his assistance or depart, fail to obey, he shall be deemed a rioter.

Person arrested therefor, committed or bailed.

14.

2. If a person be arrested for a riot, rout, or unlawful assembly, the judge or justice ordering the arrest, or any other justice, shall commit him to jail, unless he shall enter into recognizance, with sufficient security, to appear before the circuit court having jurisdiction of the offence, at its then next term, to answer therefor, and in the mean time to be of good behavior and keep the peace.

Punishment of justice failing in duty, on a person disobeying his order to disperse.

14.

3. If any judge or justice have notice of a riotous, tumultuous, or unlawful assembly, in the county or corporation in which he resides, and fail to proceed immediately to the place of such assembly, or as near as he may safely, or fail to exercise his authority for suppressing it and arresting the offenders, he shall be fined not exceeding one hundred dollars.

14.

4. If any person, engaged in such assembly, being commanded as aforesaid to disperse, fail to do so without delay, any such judge or justice may require the aid of a sufficient number of persons, in arms or otherwise, and proceed, in such manner as he may deem expedient, to disperse and suppress such assembly; and arrest and secure those engaged in it.

Justices, and persons acting under their orders, guiltless, if a person be killed, &c., if either of them killed, all engaged in the assembly guilty.

14.

5. If, by any means taken under authority of this act, to disperse any such assembly, or arrest and secure those engaged in it, any person present, as spectator or otherwise, be killed or wounded, any judge or justice exercising such authority, and every one acting under his order, shall be held guiltless; and if the judge or justice, or any person acting under the order of either of them, be killed or wounded in taking such means, or by the rioters, all persons engaged in such assembly shall be deemed guilty of such killing or wounding.

Punishment of rioter, when dwelling house injured, and when not.

Id.
16 Gratt. 343.

6. If any rioter pull down or destroy, in whole or in part, any dwelling house, or assist therein, he shall be confined in the penitentiary not less than one nor more than five years; and though no such house be so injured, every rioter, and every person unlawfully or tumultuously assembled, shall be confined in jail not more than one year, and fined not exceeding one hundred dollars.

Carrying concealed weapons.

1838, p. 78, c. 101.
1847, A, p. 110, § 8.
1860-70, c. 319.
p. 610.

7. If a person habitually carry about his person, hid from common observation, any pistol, dirk, bowie knife, or any weapon of the like kind, he shall be fined fifty dollars, and imprisoned for not more than twelve months in the county or corporation^{*} jail. The informer shall have half of such fine.

* The words "or corporation," inserted.

vator of the peace, and may require from persons not of good fame, 1817-8, p. 127, c. 16, § 1, p. 17, security for their good behavior, for a term not exceeding one year.* 1866-7, c. 118, § 1, p. 916.

2. If complaint be made to any such conservator that there is good cause to fear that a person intends to commit an offence against the person or property of another, he shall examine on oath the complainant, and any witnesses who may be produced, reduce the complaint to writing, and cause it to be signed by the complainant.

3. If it appear proper, such conservator shall issue a warrant, reciting 1817-8, p. 128, 3 Marsh., 428, the complaint, and requiring the person complained of forthwith to be apprehended and brought before him or some other conservator.

4. When such person appears, if the conservator, on hearing the 1845-6, p. 64, c. 17, parties, consider that there is not good cause for the complaint, he shall 1847-8, p. 128, discharge the said person, and may give judgment in his favor against 1866-7, c. 118, § 4, p. 916, the complainant for his costs. If he consider that there is good cause therefor, he may require a recognizance of the person against whom it is, and give judgment against him for the costs of the prosecution, or any part thereof; and unless such recognizance be given, he shall commit him to jail by a warrant, stating the sum and time in and for which the recognizance is directed. The person giving judgment, under this Ante, c. 117, section, for costs, may issue a writ of fieri facias thereon, if an appeal 19, 11, be not allowed; and proceedings thereupon may be according to the ninth and eleventh sections of chapter one hundred and forty-seven.

5. A person from whom such recognizance is required, may, on giving 1817-8, p. 129, 16-18, it; appeal to the court of the county or corporation; in such case, the 1866-7, c. 118, officer from whose judgment the appeal is taken, shall recognize such 5, p. 916, of the witnesses as he thinks proper.

Power of court thereupon, and when accused is committed.

6. The court may dismiss the complaint or affirm the judgment, and 10, 11, make what order it sees fit as to the costs. If it award costs against the appellant, the recognizance which he may have given, shall stand as a security therefor. When there is a failure to prosecute the appeal, such recognizance shall remain in force, although there be no order of affirmance. On any appeal the court may require of the appellant a new recognizance if it see fit.

7. Any person committed to jail under this chapter may be discharged by the county or corporation court on such terms as it may deem reasonable.

Persons armed; affrays and threats; recognized to keep peace.

8. If a person go armed with a deadly or dangerous weapon, without 10, 11, 1 B. C., p. 554, reasonable cause to fear violence to his person, family or property, he c. 160, may be required to give a recognizance, with the right of appeal, as before provided, and like proceedings shall be had on such appeal.

9. If a person, in the presence of a court or a conservator of the 1847-8, p. 129, 5, 16,

* By § 16, post., special county police are to be appointed to exercise this authority. Police justices are also conservators.—See ante, c. 18, § 8, p. 464. By § 20, post., they are to be appointed for watering places, and for the university and incorporated colleges. And the Central agricultural society may appoint special constables with same authority.—Post, § 19; Acts 1859-60, c. 294, § 4.

Tab 36

CODE OF WASHINGTON

1881

LIBRARY
UNIVERSITY OF WASHINGTON
SEATTLE.

C. B. Bagley, Public Painter, Olympia, W. T.

fail to return a certificate thereof, within the time prescribed by law, shall be fined in any sum not exceeding three hundred dollars.

Sec. 926. Every person who shall undertake to join parties in marriage, knowing that he is not authorized so to do, shall, upon conviction thereof, be imprisoned in the county jail not more than three months or fined in any sum not exceeding five hundred dollars.

Sec. 927. Every person who shall willfully or maliciously remove any monuments of stone, wood or other durable material, lawfully erected for the purpose of designating the corner or any other point in the boundary of any lot or tract of land, or any post or stake lawfully fixed or driven in the ground for the purpose of designating a point in the boundary of any lot or tract of land, or alter the marks upon any tree, post, or other monument lawfully made for the purpose of designating any point, course, or line in the boundary of any lot or tract of land, or shall cut down or remove any tree upon which any such marks shall be made for such purpose, with the intent to destroy such marks, shall, upon conviction thereof, be imprisoned in the county jail.

Sec. 928. Every person who shall moor or chain any steamer, sloop, scow or other vessel, or raft, or boom of logs to the piling, pier, abutments, or other supports of any bridge within this territory, shall, on conviction thereof, be fined in any sum not exceeding three hundred dollars nor less than fifty dollars.

Sec. 929. If any person carry upon his person any concealed weapon, he shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not more than one hundred dollars, or imprisoned in the county jail not more than thirty days: *Provided*, That this section shall not apply to police officers and other persons whose duty it is to execute process or warrants, or make arrests.

Sec. 930. If any person torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, cruelly kill or over drive any animal; or cruelly drive or work the same when unfit for labor; or cruelly abandon the same; or carry or cause the same to be carried on any vehicle, or otherwise, in an unnecessarily cruel and inhuman manner, he shall be punished by imprisonment in the county jail not exceeding thirty days, or by fine not exceeding one hundred dollars.

Sec. 931. That any person or persons riding or driving faster than a walk, over any bridge located on any county or territorial road, composed of one or more spans, upon conviction thereof, shall be fined in any sum not to exceed ten dollars nor less than five dollars, to be collected by any court having competent jurisdiction thereof; and all moneys so collected, shall be paid into the county treasury and become a part of the school fund: *Provided*, That this section shall apply only to bridges over thirty feet in length.

Sec. 932. If any person knowingly bring within this territory any pauper or poor person, with the intent of making him a charge on any county or counties therein, he shall be punished by fine not exceeding five hundred dollars and stand charged with his support.

Sec. 933. If any person knowingly import or bring within this territory, any horse, mule, or ass, affected by the disease known as nasal gleet, glanders, or button farcy, or suffer the same to run at large upon any common, highway, or uninclosed land, or use or tie the same in any pub-

Tab 37

CHAPTER 95

(House Bill No. 406—By Mr. Hill)

AN ACT to amend and re-enact section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of one thousand nine hundred and nine, regular session, relating to offenses against the peace.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec. 7. Carrying deadly weapons misdemeanor; felony, when; penalty; duty prosecuting attorney; boys under eighteen, provisions for: state license, how obtained; bond; provision for carrying weapons on own premises; provi- | sion for agents of express companies, bond for; justice may authorize carrying, when; ministerial officers to report; failure to report a misdemeanor; penalty; officers who may carry such weapons; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of the legislature of West Virginia of one thousand nine hundred and nine, regular session, be amended and re-enacted so as to read as follows:

Section 7. If any person, without a state license therefor, 2 carry about his person any revolver or other pistol, dirk, bowie 3 knife, slung shot, razor, billy, metallic or other false knuckles, or 4 any other dangerous or deadly weapon of like kind and charac- 5 ter, he shall be guilty of a misdemeanor, and upon conviction 6 thereof be confined in the county jail for a period of not less 7 than six nor more than twelve months for the first offense; but 8 upon conviction of the same person for the second offense in 9 this state, he shall be guilty of a felony and be confined in the 10 penitentiary not less than one nor more than two years, and in 11 either case fined not less than fifty nor more than two hundred 12 dollars, at the discretion of the court; and it shall be the duty 13 of the prosecuting attorney in all cases to ascertain whether or 14 not the charge made by the grand jury is the first or second of- 15 fense, and if it shall be the second offense it shall be so stated in 16 the indictment returned, and the prosecuting attorney shall in- 17 troduce the record evidence before the trial court of said sec- 18 ond offense, and shall not be permitted to use his discretion in 19 charging said second offense nor in introducing evidence to 20 prove the same on the trial; *provided*, that boys under the age

21 of eighteen years, upon the second conviction, may at the dis-
22 cretion of the court, be sent to the reform school of the state.
23 Any person may obtain a state license to carry any such weapon
24 within any county in this state by publishing a notice in some
25 newspaper published in the county in which he resides, setting
26 forth his name, residence, and occupation, and that on a certain
27 day he will apply to the circuit court of his county for such
28 state license, and after the publication of such notice for at least
29 ten days before said application is made and at the time stated
30 in said notice upon application to said circuit court, it may
31 grant such person a license in the following manner, to-wit:

32 *First.* Such person must prove to said court that he is over
33 twenty-one years of age; that he is a person of good moral char-
34 acter, of temperate habits, and is not addicted to intoxication,
35 and has not been convicted of a felony nor of any other offense
36 involving the use on his part in an unlawful manner of any
37 such weapon.

38 *Second.* He shall file with said court an application stating
39 the purpose or purposes for which he desires to carry any such
40 weapon, and shall show in such application, and prove to the
41 court, good reason and cause for carrying such weapon. There-
42 upon, if such circuit court be satisfied from the proof that there
43 is good reason and cause for such person to carry such weapon,
44 and all of the other conditions of this act be complied with, said
45 circuit court may grant said license; but before said license
46 shall be effective such person shall pay to the sheriff, and the
47 court shall so certify in its order granting the license, the sum
48 of ten dollars, and shall also file a bond with the clerk of said
49 court in the penalty of three thousand five hundred dollars, with
50 good security, signed by a responsible person or persons, or by
51 some surety company authorized to do business in this state,
52 conditioned that such applicant will not carry such weapon ex-
53 cept in accordance with his said application and as authorized
54 by the court, and that he will pay all costs and damages ac-
55 cruing to any one by the accidental discharge or improper, neg-
56 ligent or illegal discharge or use of said pistol. Any such
57 license shall be good for one year, unless sooner revoked, and
58 be co-extensive with the state, and all licenses collected here-
59 under shall be accounted for to the auditor and paid over by the
60 sheriffs as other license taxes are collected and paid, and the
61 state tax commissioner shall prepare all suitable forms for

62 licenses and bonds and certificate showing that such license has
63 been granted and do anything else in the premises to protect the
64 state and to see to the enforcement of this act; *provided*, that
65 nothing herein shall prevent any person from carrying any such
66 weapon, in good faith and not for a felonious purpose, upon his
67 own premises, nor shall anything herein prevent a person from
68 carrying any such weapon (if it be a revolver or other pistol
69 unloaded) from the place of purchase to his home or place of
70 residence or a place of repair and back to his home or residence;
71 and, *provided, further*, that nothing herein shall prevent agents,
72 messengers and other employees of express companies doing
73 business as common carriers, whose duties require such agents,
74 messengers and other employees to have the care, custody or
75 protection of money, valuables and other property for such ex-
76 press companies, from carrying any such weapon while actually
77 engaged in such duties, or in doing anything reasonably inci-
78 dent to such duties; *provided*, such express company shall
79 execute a continuing bond in the penalty of thirty thousand
80 dollars, payable unto the state of West Virginia, and with se-
81 curity to be approved by the secretary of state of the state of
82 West Virginia, conditioned that said express company will pay
83 all damages accruing to anyone by the accidental discharge or
84 improper, negligent or illegal discharge or use of such weapon by
85 such agent, messenger or other employee while actually engaged
86 in such duties for such express company, or in doing anything
87 that is reasonably incident to such duties, but the amount which
88 may be recovered for breach of such condition shall not exceed
89 the sum of three thousand five hundred dollars in any one case,
90 and such bond shall be filed with and held by the said secretary
91 of state for the purpose aforesaid, but upon the trial of any
92 cause for the recovery of damages upon said bond, the burden of
93 proof shall be upon such express company to establish that such
94 agent, messenger or other employee was not actually employed
95 in such duties for such express company nor in doing anything
96 that was reasonably incident to such duties at the time such
97 damages were sustained; and, *provided, further*, that in cases
98 of riot, public danger and emergency, a justice of the peace
99 or other person issuing a warrant may authorize a special con-
100 stable and his posse to carry weapons for the purpose of exe-
101 cuting a process, and a sheriff in such cases may authorize a
102 deputy or posse to carry weapons, but the justice shall write on

103-104 his docket the causes and reasons for such authority and
105 the person so authorized, and index the same, and the sheriff or
106 other officer shall write out and file with the clerk of the county
107 court the reasons and causes for such authority and the person
108 so authorized, and the same shall always be open to public in-
109 spection, and such authority shall authorize such special con-
110 stable, deputies and posses to carry weapons in good faith only
111 for the specific purposes and times named in such authority,
112 and upon the trial of every indictment the jury shall inquire
113 into the good faith of the person attempting to defend any
114 such indictment under the authority granted by any such jus-
115 tice, sheriff or other officer, and any such persons so author-
116 ized shall be personally liable for the injury caused any one by
117 the negligent or unlawful use of any such weapon. It shall
118-119 be the duty of all ministerial officers, consisting of the jus-
120 tices of the peace, notaries public and other conservators of the
121 peace of this state, to report to the prosecuting attorney of the
122 county the names of all persons guilty of violating this section,
123 and any person wilfully failing so to do shall be guilty of a
124 misdemeanor and shall be fined not exceeding two hundred
125 dollars and shall, moreover, be liable to removal from office
126 for such wilful failure; *provided, further,* that nothing herein
127 contained shall be so construed as to prohibit regularly elected
128 sheriffs, their regularly appointed deputies who collect taxes in
129 each county and all regularly elected constables in their re-
130 spective counties and districts and all regularly appointed
131 police officers of their respective cities, towns or villages from
132 carrying such weapons as they are now authorized by law to
133 carry, who shall have given bond in the penalty of not less
134 than thirty-five hundred dollars conditioned for the faithful
135 performance of their respective duties, which said officers shall
136 be liable upon their said official bond for the damages done by
137 the unlawful or careless use of any such weapon whether such
138 bond is so conditioned or not.

All other acts or parts of acts inconsistent with this act are
hereby repealed.

Tab 38

THE
CODE OF WEST VIRGINIA.

COMPRISING

LEGISLATION TO THE YEAR

1870.

WITH AN APPENDIX, CONTAINING

LEGISLATION OF THAT YEAR.

PUBLISHED PURSUANT TO LAW.



WHEELING:

JOHN FREW, PUBLIC PRINTER.

1868.

assistance of all persons present, and of the sheriff of the county, with his posse if need be, in arresting and securing those so assembled. If any person present, on being required to give his assistance or depart, fail to obey, he shall be deemed a rioter.

Code Va., p. 502. 2. If a person be arrested for a riot, rout, or unlawful assembly, ¹² the judge or justice ordering the arrest, or any other justice, shall commit him to jail, unless he shall enter into recognizance, with sufficient security, to appear before the circuit court having jurisdiction of the offense, at its then next term, to answer therefor, and in the meantime to be of good behavior and keep the peace.

13. 3. If any judge or justice have notice of a riotous, tumultuous, or unlawful assembly in the county in which he resides, and fail to proceed immediately to the place of such assembly, or as near as he may safely, or fail to exercise his authority for suppressing it and arresting the offenders, he shall be fined not exceeding one hundred dollars.

13. 4. 4. If any person, engaged in such assembly, being commanded as aforesaid to disperse, fail to do so without delay, any such judge or justice may require the aid of a sufficient number of persons, in arms or otherwise, and proceed, in such manner as he may deem expedient, to disperse and suppress such assembly, and arrest and secure those engaged in it.

13. 5. 5. If by any means, taken under authority of this chapter, to disperse any such assembly, or arrest and secure those engaged in it, any person present, as spectator or otherwise, be killed or wounded, any judge or justice exercising such authority, and every one acting under his order, shall be held guilty; and if the judge or justice, or any person acting under the order of either of them, be killed or wounded in taking such means, or by the rioters, all persons engaged in such assembly shall be deemed guilty of such killing or wounding.

13. 6. 6. If any rioter pull down or destroy, in whole or in part, any dwelling-house, or assist therein, he shall be confined in the penitentiary not less than one nor more than five years; and though no such house so be injured, every rioter, and every person unlawfully or tumultuously assembled, shall be confined in jail not more than one year, and fined not exceeding one hundred dollars.

14. p. 503. 7. Grat. 597. 7. If any person, habitually, carry about his person, hid from common observation, any pistol, dirk, bowie knife, or weapon of the like kind, he shall be fined fifty dollars. The informer shall have one half of such fine.

Acts of 1866, p. 23, ch. 34. 8. If any person shall willfully disturb, molest, or interrupt any literary society, school, or society formed for intellectual improvement, or any other school or society organized under the laws of this state, or any school, society, or meeting formed or convened for improvement in music, either vocal or instrumental, or for any moral and social amusement, the person so offending shall be deemed guilty of a misdemeanor, and, on conviction thereon, shall be fined not less than five dollars, and may be imprisoned in the county jail not exceeding ten days.

for the like offense, he shall be sentenced to be confined in the penitentiary for one year.

Id. § 28.
1 Va. Com. 151-2.

26. When any person is convicted of two or more offenses, before sentence is pronounced for either, the confinement to which he may be sentenced upon the second, or any subsequent conviction, shall commence at the termination of the previous terms of confinement.

Code Va. p. 815.
10 Griff. 735.

27. When a person is convicted of selling, or offering or exposing for sale, at retail, spirituous liquors, wine, porter, ale, or beer, or drink of like nature, and it is alleged in the indictment or presentment on which he is convicted, and admitted, or by the jury found, that he has been before convicted of the like offense, he shall be fined as provided in the third section of chapter thirty-two, and may, at the discretion of the court, be confined in jail not exceeding six months.

Acts of 1865, p. 121, ch. 149, § 1.

28. No criminal prosecution for any felony or misdemeanor shall be maintained in the courts of this state against any person for any act done in the suppression of the late rebellion; and it shall be a sufficient defense to such prosecution, to show that such act was done in obedience to the orders, or by the authority, of any civil or military officer of this state, or of the re-organized government of Virginia, or of the government of the United States; or that said act was done in aid of the purposes and policy of said authorities, in retarding, checking, and suppressing the said rebellion.

CHAPTER CLIII.

FOR PREVENTING THE COMMISSION OF CRIMES.

SEC.	SEC.
1. Conservator of the peace; power to bind to good behavior.	8. Person going armed with deadly weapon, when required to give recognizance, etc.
2. Duty of, on complaint that a crime is intended.	9. Affray, etc., in the presence of constable.
3. Proceedings when accused appears.	10. In presence of justice; duty of justice where person brought before him, etc.
4. Right of accused to appeal.	11. Proceedings where person suspected of unlawful retarding of spirituous imports.
5. Power of court upon such appeal, and when the accused is committed.	

Code of Va. p. 617, § 1.

Constit. art. 7, § 6. peace, within his county. As such conservator, every justice shall have power to require from persons not of good fame, security for their good behavior for a term not exceeding one year.

Code Va. p. 817. 2. If complaint be made to any justice, as such conservator, that there is good cause to fear that a person intends to commit an offense against the person or property of another, he shall examine on oath the complainant, and any witnesses who may be produced, reduce the complaint to writing, and cause it to be signed by the complainant.

11, p. 818, § 2.
Mont. 455.

3. If it appear proper, such justice shall issue a warrant, reciting the complaint, and requiring the person complained of forthwith to be apprehended and brought before him or some other justice.

4. When such person appears, if the justice, on hearing the par- ^{Code Va. p. 818.} ~~ts~~ ^{§ 4.} tics, consider that there is not good cause for the complaint, he shall discharge the said person, and may give judgment in his favor against the complainant for his costs. If he consider that there is good cause therefor, he may require a recognizance of the person against whom it is, and give judgment against him for the costs of the prosecution, or any part thereof; and, unless such recognizance be given, he shall commit him to jail, by a warrant, stating the sum and time in and for which the recognizance is directed. The justice giving judgment under this section for costs may issue a writ of fieri facias thereon, if an appeal be not allowed; and proceedings thereupon may be according to the two hundred and twenty-seventh section of chapter fifty.

5. A person from whom such recognizance is required may, on ~~to § 5.~~ giving it, appeal to the circuit court of the county; and in such case the officer from whose judgment the appeal is taken shall recognize such of the witnesses as he thinks proper.

6. The court may dismiss the complaint, or affirm the judgment, ~~to § 6.~~ and make what order it sees fit as to the costs. If it award costs against the appellant, the recognizance which he may have given shall stand as a security therefor. When there is a failure to prosecute the appeal, such recognizance shall remain in force, although there be no order of affirmance. On any appeal the court may require of the appellant a new recognizance, if it see fit.

7. Any person committed to jail under this chapter may be discharged by the circuit court, or the judge thereof in vacation, upon such terms as may be deemed reasonable.

8. If any person go armed with a deadly or dangerous weapon, ~~to § 8.~~ without reasonable cause to fear violence to his person, family, or property, he may be required to give a recognizance, with the right of appeal, as before provided, and like proceedings shall be had on such appeal.

9. If any person shall, in the presence of a constable and within ^{to § 9.} ~~Act of 1863, p. 234-5, § 1.~~ his county, make an affray, or threaten to beat, wound, or kill another, or to commit violence against his person or property; or contend with angry words to the disturbance of the peace; or improperly or indecently expose his person; or appear in a state of gross intoxication in a public place; such constable, as such conservator, may, without warrant or other process, or further proof, arrest such offending person and carry him before some justice of the township in which such offense is committed, who, upon hearing the testimony of such constable and other witnesses, if any are then and there produced, if, in his opinion the offense charged be proved, shall require the offender to give a bond or recognizance, with security, to keep the peace and be of good behavior for a term not exceeding one year.

10. If any offense enumerated in the preceding section be com- ^{to § 10.} ~~p. 235, § 2.~~

mitted in the presence of a justice within his county, or the offender being brought before him, the commission thereof be proved to his satisfaction, he may, besides requiring a bond or recognizance with security, as provided in the preceding section, impose a fine upon the offender not exceeding five dollars. If such bond or recognizance be not then and there given, or such fine be not then and there paid, the said justice shall commit the offender to the jail of his county, there to remain until such bond or recognizance be given, and such fine be paid; but no imprisonment under this section shall continue more than ten days, at the end of which the sheriff or jailor shall discharge the prisoner, unless he has been commanded by sufficient authority to detain him for some other cause.

Code of Va., p. 11. If any justice suspect any person of selling, by retail, wine, 818, § 10. Acts of 1864, p. or ardent spirits, or a mixture thereof, contrary to law; or of selling, or offering or exposing for sale, any intoxicating liquor, or keeping open any distillery, bar, office, stall, or room in his possession, or under his control, at which such liquor had theretofore usually been sold, or permitting any person to drink any intoxicating liquor at the same, on the day of an election, and within two miles of the place of such election, or during the night succeeding such day, contrary to the eleventh section of chapter five, such justice shall summon the person suspected of such offense, and such witnesses as he may think proper, to appear before him; and upon the person so suspected appearing, or failing to appear, if the justice, on examining the witnesses under oath, find sufficient cause, he shall direct the prosecuting attorney for the county to institute a prosecution against the person so suspected, and shall recognize the material witnesses, or cause them to be summoned, to appear at the next term of the circuit court of the county. Such justice may also require the person suspected to enter into recognizance to keep the peace and be of good behavior for a time not exceeding one year. If recognizance be given by the person so suspected, the condition thereof shall be deemed to be broken, if during the time for which it is given, such person shall sell, by retail, wine, or ardent spirits, or a mixture thereof, contrary to law, or violate in any particular the eleventh section of chapter five.

CHAPTER CLIV.

OF INQUESTS UPON DEAD BODIES.

REC.	P.P.
1. Duty of justice upon being notified of death by violence, etc.	7. Justice to issue warrant for the arrest of accused, if not in custody.
2. Warrant and summons, how executed.	8. When deceased a stranger, body to be burned, etc.; cost, how paid.
3. Jury impaneled; their oath.	9. Justice may require physician to attend inquest.
4. How witnesses compelled to attend; how evidence taken.	10. Power on justice to neglect duty.
5. Interrogation.	11. Deposition may be taken on summary.
6. Inquisition, evidence, etc., returned; witness recognized.	

Tab 39

BY AUTHORITY OF THE LEGISLATIVE ASSEMBLY.

REVISED STATUTES OF WYOMING.

IN FORCE JANUARY 1, 1887.

INCLUDING
THE DECLARATION OF INDEPENDENCE, THE ARTICLES
OF CONFEDERATION, THE CONSTITUTION OF
THE UNITED STATES, THE ORGANIC
ACT OF WYOMING,

AND ALL

LAWS OF CONGRESS AFFECTING THE TERRITORIAL
GOVERNMENT.

PREPARED AND EDITED BY

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CHEYENNE, WYOMING.
THE DAILY SUN STEAM PRINTING HOUSE,
1887.

Officer refusing to prevent duel.

SEC. 977. If any judge, justice of the peace, sheriff or other officer, bound to preserve the public peace, shall have knowledge of an intention on the part of any two persons to fight with any deadly weapon or weapons, and such officer shall not use and exert his official authority to arrest the parties and prevent the duel, every such officer shall be fined not exceeding five hundred dollars. [C. L. 1876, ch. 35, § 104.]

Libeling person for not accepting challenge.

SEC. 978. If any person or persons shall, in any newspaper or handbill, written or printed, publish or proclaim any other person or persons as coward or cowards, or use any other opprobrious or abusive language for not accepting a challenge to fight a duel, such person or persons so offending, on conviction, shall be fined in a sum not exceeding five hundred dollars, or imprisoned for a term not exceeding three months. The publisher or printer of any such newspaper, handbill or other publication may be summoned as a witness, and shall be required to testify against the writer or writers of such handbill or publication, and if any such printer or printers shall refuse to testify in relation to the premises, either before the grand or petit jury, he or they shall be deemed guilty of a flagrant contempt of the court, and may be punished by fine and imprisonment or either; *Provided, however,* That the testimony given by such witness shall in no case be used in any prosecution against such witness. [C. L. 1876, ch. 35, § 105.]

Libel.

SEC. 979. A libel is a malicious defamation, expressed either by printing or by signs, or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, and thereby to expose him or her to public hatred, contempt or ridicule. Every person, whether writer or publisher, convicted of this offense, shall be fined in a sum not exceeding five hundred dollars, or imprisoned in the penitentiary not exceeding one year. In all prosecutions for a libel, the truth thereof may be given in evidence in justification, except libels tending to blacken the memory of the dead, or expose the natural defects of the living. [C. L. 1876, ch. 35, § 106.]

Carrying concealed weapons.

SEC. 980. Hereafter it shall be unlawful for any resident of any city, town or village, or for any one not a resident of any city, town or village, in said territory, but a sojourner therein, to bear upon his person, concealed or openly, any fire-arm or other deadly weapon, within the limits of any city, town or village. [C. L. 1876, ch. 52, § 1.]

Non-resident carrying weapons after notification by officer.

SEC. 981. If any person not a resident of any town, city or village of Wyoming Territory, shall, after being notified of the existence of the last preceding section by a proper peace officer, continue to carry or bear upon his person any fire-arm or other deadly weapon, he or she shall be deemed to be guilty of a violation of the provisions of said section and shall be punished accordingly. [C. L. 1876, ch. 52, § 2.]

Penalty for violating last two sections.

SEC. 982. Any person violating any of the provisions of the last two preceding sections shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than fifty dollars, and, in the default of the payment of any fine which may be assessed against him, shall be imprisoned in the county jail for not less than five days nor more than twenty days. [C. L. 1876, ch. 52, § 3.]

Exhibiting deadly weapon in angry manner.

SEC. 983. Whoever shall, in the presence of one or more persons, exhibit any kind of fire-arms, bowie knife, dirk, dagger, sling shot, or other deadly weapon, in a rude, angry or threatening manner not necessary to the defense of his person, family or property, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. [S. L. 1884, ch. 67, § 1.]

Discharging fire-arms from or near railroad trains. Copy of law to be posted in cars.

SEC. 984. It shall be unlawful for any person in this territory to fire any rifle, revolver or other fire-arm of any description whatever, from any window, door, or other part of any railroad car or train, engine or tender, or along the line of railroad during the passing of any train or engine; or when any person is passing in the vicinity of the person having in his possession such fire-arm, and any person so offending, shall, on conviction, be fined in a sum not exceeding twenty dollars, and for a second offense, confined in the county jail for a term not exceeding sixty days. And it shall be the duty of any railroad company to post a copy of this and the next succeeding section in every railroad car used for the transportation of passengers passing through the territory. But nothing in this section contained, shall be construed as preventing employees on railroad trains from carrying fire-arms, and using the same when necessary for the protection of themselves and the persons and property under their charge. [S. L. 1879, ch. 43, § 1.]

Arrest and trial of offenders against last section.

SEC. 985. It shall be lawful for any conductor, brakeman, or any person in charge of such railroad car, train or engine, to arrest any such person so offending, and take him before some justice of the peace in the county where the offense was committed, or deliver him to some officer of the county, and, the justice, upon information as in other cases of misdemeanor, shall proceed to examine into the complaint, as if the arrest had been made by virtue of a warrant duly issued. [S. L. 1879, ch. 43, § 2.]

Selling or giving liquor to Indians.

SEC. 986. Any person or persons who shall sell, barter or give away any spirituous or intoxicating liquor to any Indian or Indians within the limits of this territory, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than five hundred dollars, nor more than one thousand dollars, to which may be added imprisonment in the county jail for any period not less than ninety days nor more than six months, or both, at the discretion of the court. [C. L. 1876, ch. 86, § 1.]

Provoking an assault.

SEC. 987. Every person who shall use words, signs or gestures toward another, which are of a nature adapted to provoke, or who by such words, signs or gestures, shall provoke or attempt to provoke another to commit an assault, or assault and battery, or other breach of the peace, such person shall, upon conviction, be fined in any sum not exceeding twenty-five dollars, or imprisoned in the county jail for a term not exceeding ten days. [S. L. 1879, ch. 25, § 1.]

of being a vagrant under this section shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months, or both, in the discretion of the court. [C. L. 1876, ch. 117, § 1 and 2.]

Having possession of burglars' tools.

SEC. 1026. If any person shall be found having upon him or her any pick lock, cow key, bit or other instrument or tool, with intent feloniously to break and enter into any dwelling house, store, warehouse, shop or other building containing valuable property, or shall be found in any of the aforesaid buildings with intent to steal any goods and chattels, every such person so offending shall, on conviction, be deemed a vagrant, and punished by confinement in the penitentiary for a term not exceeding two years nor less than one year. [C. L. 1876, ch. 35, § 126. S. L. 1882, ch. 52, § 1.]

Having possession of offensive weapons.

SEC. 1027. If any person or persons shall have upon him any pistol, gun, knife, dirk, bludgeon or other offensive weapon, with intent to assault any person, every such person, on conviction, shall be fined in any sum not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months. [C. L. 1876, ch. 35, § 127.]

Refusing to join posse comitatus.

SEC. 1028. Every male person above eighteen years of age, who shall neglect or refuse to join the *posse comitatus*, or the power of the county, by neglecting or refusing to aid and assist in taking or arresting any person or persons, against whom there may have been issued any civil or criminal process, or by neglecting or refusing to aid and assist in retaking any person or persons who, after having been arrested or confined, may have escaped from such arrest or imprisonment, or neglecting or refusing to aid and assist in preventing any breach of the peace, or commission of any criminal offense, being thereto lawfully required by any sheriff, coroner, constable, judge or justice of the peace, or other officer concerned in the administration of justice, shall, upon conviction, be fined in any sum not less than twenty dollars nor more than two hundred dollars. [C. L. 1876, ch. 35, § 128.]

Grave robbing.

SEC. 1029. If any person or persons shall open the grave or tomb, where the body or bodies of any person or persons shall have been deposited, and shall remove the body or bodies or remains of any deceased person or persons from the grave or place of sepulture for the purpose of dissection, or any surgical or anatomical experiment, or for any other purpose, without the knowledge and consent of the near relations of the deceased, or shall in any way aid, assist, counsel or procure the same to be done, every such person or persons so offending shall, on conviction, be fined not less than one hundred dollars nor more than five hundred dollars; *Provided*, That this section shall not extend to the dissection of any criminal, where the same shall be directed to be delivered up for that purpose by competent authority; *And provided, also*, That this section shall not be construed to prevent any person from removing the body or bodies of their deceased relations or intimate friends to any other place of sepulture that he or she may think proper. [C. L. 1876, ch. 35, § 129.]

Illegal voting.

SEC. 1030. If any person, being an elector, shall vote more than once at any election which may or shall be held by virtue of any law of this territory, or shall vote at any place or polls in, and at which he is not a voter, he shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, or imprisoned in the county jail not more than six months. [C. L. 1876, ch. 35, § 130.]

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2010, I caused a true and accurate copy of the Statutory Appendix to the Brief for Professional Historians and Law Professors Saul Cornell, Paul Finkelman, Stanley N. Katz, and David T. Konig as *Amici Curiae* in Support of Appellees to be served upon the following counsel for the parties via the Court's ECF system:

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